

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN  
BENITEZ, CHRISTIAN LEMUS CERNA,  
OMAR DEJESUS CASTILLO, MANUEL  
ERNESTO PAIZ GUEVARA, and  
JESUS ALEJANDRO CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 27, 2016

JURY TRIAL

BEFORE: THE HONORABLE GERALD BRUCE LEE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE  
BY: JULIA MARTINEZ, AUSA  
TOBIAS TOBLER, AUSA

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OFFICIAL COURT REPORTER:

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U.S. District Court  
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1 APPEARANCES (Continued)

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4 BY: ROBERT L. JENKINS, JR., ESQ.  
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7 FOR DEFENDANT ALVIN GAITAN BENITEZ

8 LAW OFFICE OF AMY LEIGH AUSTIN  
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16 FOR DEFENDANT OMAR DEJESUS CASTILLO

17 FIRSTPOINT LAW GROUP, PC  
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19 OLD TOWN ADVOCATES, PC  
20 BY: MEREDITH M. RALLS, ESQ.

21 FOR DEFENDANT MANUEL ERNESTO PAIZ GUEVARA

22 LAW OFFICE OF W. MICHAEL CHICK, JR.  
23 BY: WILLIAM MICHAEL CHICK, JR., ESQ.

24 FOR DEFENDANT JESUS ALEJANDRO CHAVEZ

25 JEROME P. AQUINO, ESQ.  
ELITA C. AMATO, ESQ.

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PROCEEDINGS

(Thereupon, the following was heard in open court at 10:17 a.m.)

(Jury not present.)

THE CLERK: 1:14 criminal 306, United States versus Jose Lopez Torres, Alvin Gaitan Benitez, Christian Lemus Cerna, Omar Dejesus Castillo, Manuel Ernesto Paiz Guevara, and Jesus Alejandro Chavez; with Spanish interpreters previously sworn.

THE COURT: Good morning.

Good morning, Counsel. Ready to proceed?

MS. RALLS: Yes, Your Honor.

THE COURT: Ready to bring the jury out?

MS. RALLS: Yes, Your Honor.

THE COURT: Okay. You can bring our jury out, Mr. Toliver. Thank you.

(Jury present.)

THE COURT: You may be seated.

Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: Good morning, Mr. Omar Dejesus Castillo. Good morning.

Good morning, Mr. Manuel Ernesto Paiz Guevara. Good morning.

1 Good morning, Mr. Jesus Alejandro Chavez.

2 Good morning.

3 Good morning, Mr. Alvin Gaitan Benitez.

4 Good morning.

5 Good morning, Mr. Christian Lemus Cerna.

6 Good morning.

7 And good morning, Mr. Jesus Alejandro

8 Chavez.

9 Good morning, Counsel. Ready to proceed?

10 MS. RALLS: Yes, Your Honor.

11 Meredith Ralls on behalf of Mr. Omar Dejesus

12 Castillo.

13 We call Terri Shaw to the stand.

14 (Witness sworn.)

15 THE WITNESS: I do.

16 THE COURT: You may proceed.

17 THEREUPON, TERRI SHAW, having been duly  
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. RALLS:

21 Q. Good morning, ma'am. Could you please state your  
22 name and spell it for the court reporter.

23 A. Good morning. Terri Shaw, T-e-r-r-i, S-h-a-w.

24 Q. And, Ms. Shaw, what do you do for a living?

25 A. I'm an interpreter.

1 MS. RALLS: One moment. I think we need to  
2 adjust the microphone.

3 BY MS. RALLS:

4 Q. Okay. You're an interpreter. And what languages  
5 do you primarily work with?

6 A. Spanish and English.

7 Q. And how long have been worked as an interpreter?

8 A. Approximately since the late '90s, early 2000s;  
9 almost 20 years.

10 Q. And, what experience, if any, do you have in  
11 translating, in interpretation?

12 A. Originally I was a translator. I obtained two  
13 translation certificates from Georgetown University,  
14 Spanish into English and French into English.

15 Q. And what's your native language?

16 A. English.

17 Q. How long have you been speaking Spanish?

18 A. Since I was 12 years old.

19 Q. And how did you learn Spanish?

20 A. My family lived in Guatemala, and I lived in many  
21 other Latin American countries.

22 Q. And you mentioned some of your certificates.  
23 What's your level of formal education?

24 A. I have a master's.

25 Q. And what's the focus of that master's?

1 A. In journalism.

2 Q. And what institution was that earned from?

3 A. Columbia University.

4 Q. Do you have any other formal degrees?

5 A. Um, I have certificates in interpretation. I  
6 took a course at the University of Arizona, a three-week  
7 course, and I -- I believe I obtained a certificate from  
8 that.

9 Q. What was the focus of that three-week course in  
10 Arizona?

11 A. That was court interpreting, Spanish, English.

12 Q. Do you hold any certifications in translating  
13 from courts?

14 A. Yes. I have certification from the Consortium of  
15 State Courts, and from the federal courts.

16 Q. And what are those certifications in?

17 A. I'm sorry?

18 Q. What are those certifications for?

19 A. For court -- Spanish/English court interpreting.

20 Q. Are you a member of any professional  
21 associations?

22 A. Yes, of the American Translators Association.  
23 I'm certified to translate from Spanish into English,  
24 the National Capital Area Translators Association, and  
25 the National Association of Judiciary Interpreters and

1 Translators.

2 Q. And, what experience do you have in interpreting  
3 for individuals from El Salvador?

4 A. In the many years I've been interpreting in the  
5 courts and outside the courts, a large majority of the  
6 people I interpreted for were from El Salvador.

7 Q. Were any of those individuals from or particular  
8 social group from El Salvador?

9 A. People -- highly educated El Salvadorans do not  
10 need interpreters, because they speak English. So most  
11 of the people were relatively low-educated.

12 Q. Do you have any specialized training, other than  
13 what you've already mentioned, in translating Salvadoran  
14 slang?

15 A. I've taken a number of workshops. The University  
16 of Arizona had particular workshops in slang and bad  
17 language, and I've taken a number of workshops in the --  
18 the topic of gangs, for example.

19 Q. And, have you ever been to El Salvador?

20 A. Yes.

21 Q. How many times?

22 A. I went once for about a week as a journalist, and  
23 another time about a week as a translator at a meeting.

24 Q. Can you tell us about any differences about the  
25 way people from El Salvador speak versus people from



1 other Spanish speaking countries?

2 A. I think the differences are mainly vocabulary.  
3 They use different words. The syntax and grammar is  
4 pretty much the same.

5 Q. And how many hours a week do you spend, on  
6 average, interpreting or translating between Spanish and  
7 English?

8 A. Well, because of my disability, I've cut back  
9 quite a bit. I usually only take one or two onsite jobs  
10 in a given week. I do interpret by telephone quite a  
11 bit.

12 Q. Do you have any other jobs, other than  
13 translating and interpreting?

14 A. No.

15 Q. Other than the courts that you mentioned, have  
16 you provided interpretation or translation services for  
17 defense attorneys?

18 A. Yes.

19 Q. In which settings?

20 A. Um, both in their offices, in jails, frequently.

21 Q. Have you provided those services for the  
22 prosecution?

23 A. Not as much. I can't recall any cases where I've  
24 worked for the prosecution. There may have been some.

25 Q. Have you provided any services for the

1 Department of Justice?

2 A. Yes. I interpreted at a good number of proffers,  
3 and I went to Mexico with a Department of Justice  
4 delegation at one point. I've also worked in their  
5 offices, interpreting for Mexican prosecutors who are  
6 visiting.

7 Q. Can you tell the jury what a proffer is?

8 A. I call it a debriefing. It's when a -- a  
9 defendant has pleaded guilty and has promised to  
10 cooperate with the prosecution, and usually he sits down  
11 with prosecutors and agents and they ask him questions  
12 about the case.

13 Q. Okay. And just to be clear, have you done any of  
14 that kind of work for this case?

15 A. No.

16 Q. Ms. Shaw, I'd like to direct your attention to  
17 the white binder in front of you, with the assistance of  
18 the court security officer. He's going to hand it to  
19 you.

20 A. Oh, good.

21 Q. If you look at the first tab there.

22 A. Yes.

23 Q. Do you recognize this document?

24 A. Yes, I do.

25 Q. Can you tell us what it is?

1           A.    It's my resumé.

2                   MS. RALLS: Your Honor, I'd like to admit  
3 what has been identi- -- what has been marked as  
4 Castillo 7 into evidence.

5                   THE COURT: Received.

6                   MS. RALLS: Your Honor, at this time we  
7 would move to recognize Ms. Shaw as an expert translator  
8 and interpreter, both in Spanish in general and in the  
9 Salvadoran dialect in particular.

10                   THE COURT: She will be qualified based upon  
11 her experience, certification and training, as an expert  
12 to translate between Spanish to English, and to appear  
13 in court and to offer interpretation.

14 BY MS. RALLS:

15           Q.    All right. Ms. Shaw, were you asked to review  
16 certain materials for this case?

17           A.    Yes, I was.

18           Q.    All right. Were you asked to review  
19 qualifications of contract language monitors who had  
20 previously testified?

21           A.    Yes.

22           Q.    What opinions, if any, do you have about their  
23 qualifications?

24                   MS. MARTINEZ: Objection, Your Honor.

25                   THE COURT: What's the objection?

1 MS. MARTINEZ: Her opinions about someone  
2 else's qualifications are not within the scope of her  
3 expertise.

4 THE COURT: Overruled.

5 THE WITNESS: Please repeat the question.

6 BY MS. RALLS:

7 Q. What opinions, if any, do you have about the  
8 qualifications of the contract language monitors who  
9 previously testified?

10 A. I noticed that they've had very little, if any,  
11 training in the techniques of translation and  
12 interpreting. However, they had a lot of on-the-job  
13 experience.

14 Q. Are you aware of any FBI regulations regarding  
15 the qualifications of these translators?

16 MS. MARTINEZ: Objection, Your Honor, calls  
17 for hearsay, beyond the scope of her expertise.

18 MS. RALLS: Your Honor --

19 THE COURT: Did you plan to qualify her to  
20 comment on the qualifications of translators, Ms. Ralls?

21 MS. RALLS: Yes, Your Honor.

22 THE COURT: All right. Are you making such  
23 a motion now?

24 MS. RALLS: Yes.

25 THE COURT: Objections?

1 MS. MARTINEZ: Yes, we object to that.  
2 There's been no foundation as to her knowledge of any  
3 sort of FBI policy or qualifications with respect to  
4 FBI. Your Honor, if you'd like to hear more, could the  
5 prosecution approach the sidebar?

6 THE COURT: All right. Lay a foundation.

7 BY MS. RALLS:

8 Q. Ms. Shaw, are you aware of any FBI regulations  
9 regarding qualifications of the translators that  
10 previously testified?

11 A. I believe you sent me some documents concerning  
12 that.

13 MS. MARTINEZ: Your Honor, at this point, we  
14 renew the objection. If her knowledge is based on  
15 something that counsel provided as opposed to her  
16 expertise otherwise.

17 THE COURT: All right.

18 MS. RALLS: Your Honor --

19 THE COURT: Yes.

20 MS. RALLS: I think it might be best to  
21 approach on this.

22 THE COURT: All right. Come to sidebar.  
23 (Thereupon, the following side-bar  
24 conference was had:)

25 MS. MARTINEZ: Your Honor, we have no

1 objection to qualifying Ms. Shaw as an expert  
2 interpreter in Spanish language or in El Salvadoran  
3 dialect. We have no objection to that.

4 If there's a foundation laid about her  
5 understanding, generally speaking, of qualifications for  
6 court-certified interpreters, for example -- which I'm  
7 not sure I see the foundation -- we may not have  
8 objection on that.

9 However, I believe what defense counsel is  
10 attempting to do is have her comment on FBI policies.  
11 Unless she has some sort of experience with respect to  
12 FBI policies, I don't think that there is really any way  
13 to lay a foundation. And certainly, as of yet, none has  
14 been laid about her expertise with respect to FBI  
15 policy.

16 And based on her last answer, it seems to me  
17 that, likely, her only knowledge of FBI policy is having  
18 received an FBI policy, and I suspect not actually a  
19 policy, but the audit report that was offered to Your  
20 Honor earlier, which does not contain the FBI policy.  
21 It was sent to defense counsel for purposes of this  
22 litigation.

23 So, again, if there's foundation about her  
24 general knowledge or expertise about what makes a  
25 court-certified interpreter, as long as foundation has

1 been laid, we likely will not object to that. But if  
2 counsel is attempting to elicit opinions about FBI  
3 policy, particularly if those opinions are based on a  
4 several-year-old audit report and not based on other  
5 information, including sworn declarations that were  
6 submitted to Your Honor in response to Your Honor's  
7 order, we do strongly object to her offering expert  
8 opinion about FBI policy.

9 MS. RALLS: Your Honor, my intent was solely  
10 to have her identify the audit report and admit it, and  
11 move on from there.

12 MS. MARTINEZ: Then we would object to  
13 hearsay on the audit report.

14 MS. RALLS: Your Honor, it's a public  
15 document. I have the citations -- citations to the  
16 rules, if we want to get into that.

17 MS. MARTINEZ: I have case law that says  
18 audit reports are inadmissible hearsay. I have to grab  
19 it from the desk.

20 MS. RALLS: As an expert, she's allowed to  
21 testify on hearsay.

22 MR. JENKINS: Your Honor, I want to add that  
23 I think that, while I understand the government  
24 counsel's objection, I think that if the witness is  
25 qualified as an expert, then the witness not only can

1 rely on hearsay, whether or not it was provided by  
2 defense counsel or government counsel, that she relied  
3 in forming her opinion about whether or not the  
4 previously testified language experts rise up to a  
5 certain standard, she's free to offer that opinion.

6 I think government counsel, certainly, on  
7 cross-examination can explore her basis for arriving at  
8 that conclusion. And if her basis was audit reports  
9 that she received from Ms. Ralls, then government  
10 counsel on cross-examination can put that before the  
11 jury, as to whether or not that was a reliable basis in  
12 order to use, to reach those conclusions or not.

13 But I don't think that stops it from being  
14 admissible -- I mean, for her to ask her the question.

15 I fall short of agreeing with Ms. Ralls that  
16 the actual audit report can come in.

17 But I think the witness can testify that she  
18 reviewed that, or she reviewed the American  
19 Encyclopedia, whatever she wants to say that she used as  
20 her bases in arriving at her opinion, because she's now  
21 been qualified as an expert.

22 THE COURT: Okay. My judgment is that you  
23 can have her identify the report, anything else that she  
24 relied upon in forming her opinion.

25 I believe she is qualified to testify about



1 her opinion about the quality of interpretations and by  
2 contract linguists.

3 The inspector general's report is admissible  
4 as a public record under the hearsay rule. I admitted  
5 such a document in another trial I just had three months  
6 ago, regarding to a general healthcare fraud case. So  
7 the documents will come into evidence and her opinions  
8 will come into evidence.

9 Objection overruled.

10 (Thereupon, the side-bar conference was  
11 concluded.)

12 BY MS. RALLS:

13 Q. All right, Ms. Shaw. So, I had asked you about  
14 your opinion of the qualifications of the contract  
15 language monitors. Did you review any documents to help  
16 you form that opinion?

17 A. Yes.

18 Q. And what documents did you review?

19 A. You sent me their testimony.

20 Q. So, you reviewed their testimony; is that what I  
21 hear you saying?

22 A. Yes.

23 Q. Did you review any other documents?

24 A. I believe you sent me an FBI report. I don't --  
25 it's --

1 Q. Let me help you out, Ms. Shaw. If you look at  
2 the second tab in that white binder.

3 A. Actually, it was another report. It was a  
4 declaration that described the language program, and --  
5 the training and the language program.

6 Q. Okay.

7 A. As well as the OIG report.

8 Q. Okay. If you turn to the second tab in the white  
9 binder in front of you.

10 A. Yes. I have it.

11 Q. Okay. Is this the OIG report you were talking  
12 about?

13 A. Yes.

14 MS. RALLS: All right. Your Honor, I would  
15 move to admit what is marked as Defendant's Exhibit  
16 Castillo 8.

17 THE COURT: For the reasons stated at  
18 sidebar, it will be received over objection.

19 BY MS. RALLS:

20 Q. Now, Ms. Shaw, we talked about some of your  
21 certifications. I believe you said you received some  
22 certifications from Georgetown University?

23 A. Yes.

24 Q. What did you have to do to get those  
25 certifications?

1       A. I got two. Each one was a one-year course in  
2 translation.

3       Q. Okay. And, I believe you also said you had a  
4 certification from something with the state courts.  
5 What was that again?

6       A. That's correct. It's the Association of State  
7 Courts. I took my training in Maryland.

8       Q. Okay. What kind of training was -- did you have  
9 to go through to get that certification?

10      A. There was a one-day session every month for eight  
11 months.

12      Q. And, I believe you also said you had a  
13 certification from a professional association?

14      A. Oh, the American Translators Association.

15      Q. Okay. What did you have to do to get that  
16 certification?

17      A. I had to take a test.

18      Q. How long was the test?

19      A. It was a one-day test.

20      Q. When you were reviewing the qualifications of the  
21 contract language monitors who had previously testified,  
22 did you see any similar certifications that they had?

23      A. No.

24      Q. I believe you also said that you're certified to  
25 interpret in federal court.

1 A. That's correct.

2 Q. In which federal courts are you certified to  
3 interpret?

4 A. All of them.

5 Q. All of them across the nation?

6 A. That's correct.

7 Q. How did you get that certification?

8 A. There's a national testing procedure. You take a  
9 written test the first year, and if you pass the written  
10 test, a year later you can take the oral test.

11 Q. So, could you do what these other interpreters  
12 are doing here today?

13 A. Yes, I can.

14 Q. Have you done that in this courthouse in the  
15 past?

16 A. I have.

17 Q. Did you review any Spanish language recordings  
18 that were admitted into evidence in this case?

19 A. Yes, I did.

20 Q. Can you tell us which recordings you reviewed?

21 A. There were three, Government Exhibit 23-A-1,  
22 Government's Exhibit 9-A-1 and 8-A-1.

23 Q. Did you review the transcripts that -- well, so  
24 you said you reviewed the recordings. Did you also  
25 review the transcripts for those recordings?

1 A. Yes.

2 Q. And, who were those transcripts prepared by?

3 A. Um, I'm looking at the Exhibit, um, 23-A-1 was  
4 translated by Sandra D'Sa and reviewed by Ramon Aguilar.  
5 And, 9-A-1 was translated by Vania Vargas and reviewed  
6 by Ramon Aguilar. And 8-A-1 was also translated by  
7 Vania Vargas and reviewed by Ramon Aguilar.

8 Q. First, I'd like to ask you about the format of  
9 these transcripts. What problems, if any, did you find  
10 with the format of the transcripts themselves?

11 A. Usually transcripts have three columns, one  
12 column with the initials of the speaker, the second one  
13 is the Spanish transcription, and the third one is the  
14 English translation. This one does not have the  
15 Spanish.

16 Q. Why is it important to have that three-column  
17 format?

18 A. It's important so that you can follow along and  
19 compare the Spanish to the English.

20 Q. Are you aware of any papers from industry  
21 associations that discuss this?

22 A. Yes. NAJIT has a position paper.

23 Q. And what is NAJIT?

24 A. National Association of Judiciary Interpreters  
25 and Translators.

1 Q. So NAJIT is N-A-J-I-T?

2 A. Correct.

3 Q. The acronym for that, so the court reporter can  
4 get that right.

5 A. Yes.

6 Q. Now, turning again to the white binder that we've  
7 looked at twice, if you go to the third tab, do you  
8 recognize that document?

9 A. I do.

10 Q. And, what is it?

11 A. That is NAJIT's position paper titled "General  
12 Guidelines and Minimum Requirements for Transcript  
13 Translation in any Legal Setting."

14 Q. Is this publication something that you relied  
15 upon in making your opinions for this case?

16 A. Yes.

17 Q. And, what's your opinion of the reliability of  
18 publications from NAJIT?

19 A. Well, in general, they're very good, and the  
20 people who put this one together are -- they're a large  
21 group of very good interpreters.

22 MS. RALLS: Your Honor, at the time I'd like  
23 to read into the record a portion of that NAJIT report.

24 MS. MARTINEZ: Objection, Your Honor. We  
25 object to hearsay. She certainly can rely on hearsay,

1 but the admissibility -- hearsay is not admissible even  
2 if the expert relied on it.

3 MS. RALLS: She has laid a foundation for a  
4 learned treatise. I have a citation to the rule that  
5 states that this may be read into the record.

6 THE COURT: Let me see it. My view is --  
7 let me see what you have.

8 MS. RALLS: I just have the notation in my  
9 notes.

10 THE COURT: All right. Then we'll put this  
11 aside for the recess, because I need to read what you  
12 have.

13 MS. RALLS: All right.

14 THE COURT: My inclination is to the sustain  
15 the objection. She can testify to what her opinions are  
16 and she can rely on whatever she wants, that is reliable  
17 in the field. But she can't just read into the record  
18 things written by others.

19 MS. RALLS: All right. Your Honor, may I --

20 THE COURT: The FBI report is different, but  
21 this is not the same as the FBI report.

22 MS. RALLS: May I put the citation on the  
23 record, to the rule I'm referring to?

24 THE COURT: Yes, you can, but it doesn't  
25 help me unless I have a copy of the case to read. Go

1 ahead.

2 MS. RALLS: It's Federal Rule of Evidence  
3 803, subsection 18.

4 THE COURT: I thought you said you had a  
5 case.

6 MS. RALLS: No, Your Honor. I have a  
7 citation to the rule.

8 THE COURT: Oh. I know the rules. Okay.  
9 Thank you.

10 The objection is sustained.

11 BY MS. RALLS:

12 Q. Ms. Shaw, upon your review of the NAJIT report,  
13 what are some of the reasons for the importance of  
14 having a three-columned transcript in a court  
15 proceeding?

16 A. I'd like to refer to --

17 THE COURT: No, you can't read the report,  
18 ma'am. You can tell us what your opinion is, but you  
19 can't read the report. I'm assuming you read it before  
20 you came to court today.

21 THE WITNESS: I have read it.

22 THE COURT: All right.

23 THE WITNESS: It's important to have a  
24 record, a written record of both the Spanish and the  
25 English for the court case, for the lawyers, for the



1 defendant who might be looking at this. So it's very  
2 important to have both of them on the same page so that  
3 you can compare them.

4 BY MS. RALLS:

5 Q. How does having the three-column report assist  
6 with determining the accuracy of the transcript?

7 A. Because a trained translator, interpreter, can  
8 compare the two versions side by side. It's much easier  
9 to see if there are any gaps or any errors of  
10 vocabulary. Listening to the tape is much more --  
11 it's -- you would also have to listen to the tape, of  
12 course.

13 But, it's a lot easier to follow along and to --  
14 to review -- to analyze the translation if you have the  
15 written Spanish right in front of you.

16 Q. Right.

17 Now, moving on to the substance of the  
18 transcripts, what problems, if any, did you notice when  
19 reviewing the substance of the transcripts themselves?

20 A. I noticed -- in listening to the tapes and  
21 reviewing the transcripts, I noticed there were some  
22 mistranslations, some things that were dropped, and some  
23 things that -- that were added that I did not hear.

24 Q. Can you give us any examples of the  
25 mistranslations or the dropped or added vocabulary?

1       A.    Okay. Let me look at my notes. I need to  
2 consult my notes, which you have. Most of the notes I  
3 took were on 23-A-1. For example --

4               MS. MARTINEZ: Your Honor, we need to  
5 approach on an issue with respect to the notes.

6               THE COURT: All right. Thank you.

7               (Thereupon, the following side-bar  
8 conference was had:)

9               MS. MARTINEZ: Your Honor, we have received  
10 from defense counsel a copy of notes of critiques of  
11 Exhibit 23-A-1. Until this morning, listening to  
12 Ms. Shaw testify, the government was not informed that  
13 she reviewed 8-A-1 and 9-A-1.

14              And if she had no notes -- maybe defense  
15 counsel needs to ask her. She said most of her notes  
16 are on 23-A-1, which suggests she also has notes on  
17 8-A-1 and 9-A-1. We have not received these from  
18 defense counsel.

19              We did make a specific request by e-mail to  
20 make sure that we received all discovery appropriately  
21 related to this expert. And, of course, Your Honor's  
22 previous order with respect to expert witnesses covers  
23 that as well, as would *Jencks*, if she's taking notes on  
24 what she intends to testify to.

25              So, at this time, we would ask that we be

1 permitted to -- be given a copy of any notes that she  
2 prepared, that she's going to testify to, because  
3 they're discoverable to the government as reverse  
4 *Jencks*, and also related to the expert testimony, and  
5 that we be given a chance to review it in order to be  
6 able to examine.

7 We're prepared with 23-A-1, because that was  
8 provided to us in advance. But apparently there's more  
9 discovery here that was not provided in advance of her  
10 testimony.

11 MS. RALLS: Your Honor, I'm not aware of any  
12 notes regarding 8-A-1 and 9-A-1. I requested Ms. Shaw  
13 to send me any notes that -- related to her testimony  
14 that she would be providing.

15 The only thing I got was what I sent to the  
16 government. And I believe that's what I saw Ms. Shaw  
17 pull out, that she was going to refer to.

18 THE COURT: All right. So long as there's  
19 no testimony about 8-A-1 and 9-A-1 and notes, that we  
20 don't have a problem. But if she has notes, they have  
21 to be produced.

22 MS. RALLS: Yes, Your Honor.

23 While we're here, I would also like to renew  
24 my request, for the record, the portion of the NAJIT  
25 report, Your Honor. She has laid the foundation for it

1 being a learned treatise, and Federal Rule of Evidence  
2 803.18 states that if the statement is relied upon by  
3 the expert on direct examination, and the publication is  
4 established as a reliable authority, then the statement  
5 may be read into evidence, but the publication itself  
6 may not be actually admitted.

7 That's why I was requesting to be able to  
8 read a portion of that report into the record.

9 THE COURT: Okay.

10 MS. MARTINEZ: Your Honor, we disagree that  
11 there has been proper foundation to establish this  
12 report as a learned treatise.

13 THE COURT: I sustain the objection.

14 She can testify about her opinions, whatever  
15 they are. They can be based upon reliable material that  
16 an expert relied upon. But they just can't come into  
17 court and read it into the record.

18 Thank you.

19 (Thereupon, the side-bar conference was  
20 concluded.)

21 BY MS. RALLS:

22 Q. All right, Ms. Shaw. I had asked you about  
23 examples of the issues that you had stated which were  
24 mistranslations or deletions or additions to vocabulary.

25 Can you give us some examples?

1       A.    Okay. In Government's Exhibit 23-A, on page 11,  
2   JR says, "Did the homie ask you for permission?"

3       I hear, "Did the homie give you permission?"

4       On page 16, when JR is giving directions, he  
5   said, "You take 123," but he left out the words, "to  
6   Woodbridge."

7       On page 17, OC is quoted as saying, "They are  
8   going to give me probation." I heard him say, "Tomorrow  
9   I am going to probation."

10      There are more, but -- do you want them all?

11      THE COURT: Uh-huh.

12   BY MS. RALLS:

13      Q.    Approximately how many examples of these kinds of  
14   errors did you find?

15      THE COURT: I want to hear them. What are  
16   they? What examples do you have? Go ahead.

17      THE WITNESS: These are the ones I wrote  
18   down.

19      THE COURT: All right.

20      THE WITNESS: There were others. But the  
21   most problems I found were in that one, Exhibit 23-A.  
22   There were other, smaller problems, in the other two.

23      Okay. Back to 23-A. Page 14 and 15, OC  
24   uses the word *paros*. It's translated as "doggies" and  
25   "friendlies." I think it means someone who owes you

1 money or a favor.

2 On page 17 -- I'm sorry. It's three lines  
3 down from the one about probation, JR said something  
4 which the translation said --

5 BY MS. RALLS:

6 Q. Ms. Shaw, can you slow down for a minute? We're  
7 going to try to put the transcripts up on the screen  
8 so --

9 A. Oh, wow.

10 Q. -- everyone else can follow along.

11 A. Okay. Are the page numbers the same? Okay.

12 THE INTERPRETER: May the interpreter have a  
13 copy to follow along? We don't have a screen.

14 THE COURT: Yes. Hold on.

15 BY MS. RALLS:

16 Q. I believe you said page 17 was the last one you  
17 were talking about?

18 A. Right.

19 MS. RALLS: If we could pull up page 17.

20 THE WITNESS: Oh, I think the page numbers  
21 are different. I guess I need to look at mine.

22 I guess the way it was sent to me, the way I  
23 printed it out, the page numbers are different. Oh boy.  
24 What -- my page 17 was quite a bit earlier than that.  
25 Um -- oh, no, I -- um, I guess it would be your 18. Let

1 me see 18, because -- hmm.

2 THE COURT: Can you let Ms. Ralls see what  
3 you have, and that way she can help you figure it out?

4 THE WITNESS: Um --

5 THE COURT: Do you have a copy of the  
6 transcript?

7 THE WITNESS: Let's go back to 17. Part of  
8 it -- I do have this part: "I had to take off time for  
9 almost a week" --

10 BY MS. RALLS:

11 Q. Ms. Shaw?

12 A. Yes.

13 Q. If you don't see it on the screen, then, let's  
14 just skip over that one.

15 A. Okay. It's funny, because the beginning is  
16 there.

17 Q. A portion --

18 MS. MARTINEZ: Your Honor?

19 THE COURT: Yes.

20 MS. MARTINEZ: We might want to approach on  
21 this issue before we go too much further into this.

22 THE COURT: Okay.

23 MS. MARTINEZ: Just so Your Honor is aware  
24 of what's --

25 THE COURT: All right. Thank you.

1 (Thereupon, the following side-bar  
2 conference was had:)

3 MS. MARTINEZ: Your Honor, I believe what's  
4 going on is that what's on the screen is, of course,  
5 what's admitted into evidence and what the jury is  
6 permitted to see, which includes redactions.

7 And I imagine Ms. Shaw was provided with the  
8 unredacted copy, which she would need to have so she can  
9 follow along and read. I understand why defense counsel  
10 did that.

11 But before she started reading from redacted  
12 portions, I wanted to stop, unless we have a "homeboy  
13 two" type problem.

14 THE COURT: Right.

15 MS. RALLS: She was provided with the  
16 unredacted copy so that she could have a complete  
17 opinion of the quality. I -- that was the only copy of  
18 the transcript that I had electronically, that I could  
19 send her.

20 I think we can just instruct her to -- that  
21 if what she has contains portions that are not in the  
22 redacted exhibits, then just skip those portions.

23 THE COURT: Isn't that risky?

24 Because I don't know what she has and what  
25 she's reading from. If she's reading from a portion



1 that was redacted, then I have a problem. And I've  
2 tried to avoid this whole issue.

3 Is it possible to have her testify about her  
4 opinion without showing the transcript and people and  
5 page?

6 Because the jury has seen the transcripts a  
7 number of times now, and they're not adding anything.

8 If she has a specific criticism, she should  
9 tell us what it is. But the screen thing is not working  
10 for me, because it doesn't seem to be that she has what  
11 we have. And I can't fix this now. I don't have time.

12 MS. RALLS: I'll move on from that, Your  
13 Honor.

14 THE COURT: All right.

15 MS. RALLS: There's one area that I intend  
16 to question her on, that I know is not redacted.

17 THE COURT: Well, do you know if it has  
18 "homeboy" in it, or should have "homeboy" in it?

19 Has Ms. Martinez seen it?

20 MS. RALLS: It does not have the homeboy  
21 issue in it. I can --

22 THE COURT: How would we know that?

23 MS. RALLS: 23-A-1, it's the top of page 30.

24 MR. SALVATO: Your Honor, maybe we could  
25 just have about a five-minute break so Ms. Ralls can --

1 THE COURT: I understand -- you had all  
2 afternoon, you had all morning. I just can't, you know,  
3 I've got to --

4 MS. RALLS: There's a particular phrase I'm  
5 going to ask her about.

6 THE COURT: Can you show us the original  
7 transcript, the redacted transcript, and make sure it's  
8 right before you ask her the question?

9 Can you get that? Can somebody get it?

10 MS. MARTELL: We can get it.

11 THE COURT: This is the third bench  
12 conference in ten minutes. It's not working for me.

13 I'm going to send the jury out.

14 (Proceedings in open court:)

15 THE COURT: Ladies and gentlemen, I need to  
16 take up a matter with counsel. I'll have you go out.  
17 Thank you.

18 (Jury not present.)

19 (Continuing at sidebar as follows:)

20 MS. RALLS: Your Honor, this is the portion.

21 THE COURT: Let the government see it.

22 MS. RALLS: Julia, page 30 at the very, very  
23 top. There's no redaction.

24 MS. MARTINEZ: Let me just read it to make  
25 sure.

1 THE COURT: Yeah, sure.

2 Are there any others, others you're planning  
3 to show her?

4 MS. RALLS: No, sir. That's the last one.

5 THE COURT: Okay.

6 MS. MARTINEZ: Your Honor, to be prudent, I  
7 think I compared the page to what's actually been  
8 admitted, but I believe that this should be unredacted  
9 and in the admitted exhibit.

10 THE COURT: Go take a look. Uh-huh.

11 MS. MARTINEZ: Your Honor, the government  
12 and, I believe, counsel for Lemus Cerna are both  
13 satisfied this can come in fully unredacted and, in  
14 fact, is in evidence unredacted, page 30 of Government's  
15 Exhibit 23-A-1.

16 THE COURT: I want to save us one more bench  
17 conference. Mr. Aquino gave me this document with tabs  
18 on it. Is this what you plan to call and have the  
19 witness look at?

20 MS. RALLS: No sir. What I will have her  
21 look at is the second tab in the binder, she's looking  
22 at. And I believe it was provided to Your Honor. It's  
23 160 pages. I'm going to ask her some questions about  
24 page 7 and 8.

25 THE COURT: I don't think you heard what I

1 just asked you. Look at this. This is what Mr. Aquino  
2 gave me. And, see if that is what you're planning to  
3 present to the witness and put on the screen and call  
4 out. If it's not, just tell me. I just don't want to  
5 have another bench conference over this.

6 MS. RALLS: This is not the full report. It  
7 does contain the page 7 and 8 that I was going to talk  
8 to her about.

9 THE COURT: I understand. But do you  
10 understand what I was asking you?

11 MS. RALLS: Your Honor, I produced --

12 THE COURT: All the witnesses have been  
13 presented documents, and there was a call-out of a  
14 certain part of the document. Are you planning to do  
15 that?

16 And if you aren't, just tell me. I just  
17 want to know what you're going to do. That's all I'm  
18 asking.

19 MS. RALLS: Yes, sir. On pages 7 and 8.

20 THE COURT: Okay. Is that it?

21 MS. RALLS: Yes, sir.

22 MR. AQUINO: You have those there, Judge.

23 THE COURT: I was trying to get her to look  
24 at what you gave me, and -- so you're planning to use  
25 these two pages.

1 MS. RALLS: Yes, sir.

2 THE COURT: Okay. And do you know what  
3 those two pages are?

4 MS. MARTINEZ: I don't.

5 THE COURT: I want no more bench  
6 conferences. I want to get on with this case.

7 That's seven and eight, those two pages.

8 MS. MARTINEZ: We're getting close, Your  
9 Honor.

10 THE COURT: That's seven, and the next page  
11 is eight.

12 MS. MARTINEZ: Yes, Your Honor.

13 THE COURT: Okay. So we will not have a  
14 bench conference about it. We're done with this.

15 All right. We'll bring the jury out. Thank  
16 you.

17 (Thereupon, the side-bar conference was  
18 concluded.)

19 THE COURT: Are we ready to bring the jury  
20 out?

21 Are we ready to bring the jury out?

22 MS. MARTINEZ: Yes.

23 MS. RALLS: Yes, Your Honor.

24 THE COURT: All right.

25 You can bring the jury out, Mr. Toliver.

1 (Jury present.)

2 THE COURT: You may be seated. Thank you.

3 All right, Counsel, you may proceed.

4 MS. RALLS: Thank you, Your Honor.

5 BY MS. RALLS:

6 Q. All right, Ms. Shaw, we were talking about  
7 Government's Exhibit 23-A-1. I'd like to direct your  
8 attention to the top of page 30. And we're going to  
9 pull that up on the screen for you.

10 Ms. Shaw, did you have an opportunity to review  
11 the portion of the recording that corresponds to this  
12 block of text?

13 A. I think I looked at that about -- I listened to  
14 it about 20 times.

15 Q. Do you have any opinion about how this portion of  
16 the text relates to the source recording?

17 A. The source recording was extremely hard to hear  
18 at that time. I think I made a note. There were  
19 scratching noises and, also, he dropped his voice, so it  
20 was almost impossible to hear him.

21 So, I heard the first part, "I told them right  
22 there."

23 And then they said something about Hoya or Soya,  
24 which is somebody's name. I didn't get that.

25 And then when it said, "We took him there to rip

1 his coconut off," all I heard was, "We took him there,"  
2 and then mumbling, garbling and a word that sounded more  
3 like *locos* than *coco*. And --

4 Q. And what is -- what are those words in English,  
5 *locos* and *coco*?

6 A. Well, *loco* literally means crazy, but it's a word  
7 they use to refer to each other or to any guy, actually.  
8 So, they say *locos* all the time. It's a word they use  
9 constantly.

10 Q. And the other word you said was *coco*. How does  
11 that translate?

12 A. Theoretically, it could mean head, but I didn't  
13 hear that.

14 Q. And, what kind of equipment were you using to  
15 listen to these recording?

16 A. I have pretty good headphones, noise cancelling  
17 headphones, and I used the -- the software you  
18 recommended to play the tape.

19 Q. What software was that?

20 A. I can't remember the name of it. You sent me the  
21 name of it.

22 Q. Did the software do anything to change the  
23 recordings?

24 A. It was a little clearer than the one I was -- I  
25 started out using, the software in my equipment, which

1 was some Microsoft thing. Then you sent me the name of  
2 the other software, and it was -- it was somewhat  
3 better, yes.

4 Q. Now, we talked a bit about the -- what you called  
5 the OIG report.

6 A. Yes.

7 Q. If you could turn to page seven of that. At the  
8 bottom it will say seven.

9 THE INTERPRETER: Could the interpreter  
10 please have that?

11 MS. RALLS: I'm sorry.

12 THE WITNESS: I found it.

13 BY MS. RALLS:

14 Q. Have you reviewed these pages, seven and eight?

15 A. Yes.

16 Q. All right. Did you rely on this in forming your  
17 opinion about the qualifications of the contract  
18 language monitors?

19 A. Somewhat, yes.

20 Q. And, how did this affect your opinion of the  
21 qualifications of the contract language monitors?

22 A. Well, as I said before, I can't really say,  
23 because I don't know how difficult the test is. They  
24 took a test. I don't know what the test is like.

25 MS. RALLS: Your Honor, may we publish page



1 eight of the report to the jury?

2 THE COURT: Yes.

3 MS. RALLS: Your Honor, I have no further  
4 questions for this witness -- oh, wait.

5 THE COURT: What is this that you put on the  
6 screen?

7 Have you had the witness identify it? What  
8 is it? Ask the witness what it is.

9 MS. RALLS: Yes, Your Honor.

10 BY MS. RALLS:

11 Q. Ms. Shaw, can you identify what this is?

12 A. This is a report by the Office of the Inspector  
13 General, an audit of the FBI's language program. And  
14 page eight describes the different types of linguists,  
15 of language specialists employed by the FBI, either as  
16 employees or contract employees. And it describes the  
17 testing they have to undergo in order to do translation  
18 and interpretation for the FBI.

19 Q. Do you know anything about the test that they had  
20 to take?

21 A. I do not.

22 MS. RALLS: Court's indulgence, Your Honor.

23 BY MS. RALLS:

24 Q. Did you -- so, we talked about 23-A and 23-A-1,  
25 and I believe you also said you reviewed a couple of

1 other recordings. Did you have an opportunity to review  
2 all of the recordings in this case?

3 A. I did.

4 Q. How many recordings did you review?

5 A. Three.

6 Q. Did you review any recordings other than the  
7 three that you talked about?

8 A. No.

9 Q. And, why is that?

10 A. Those are the only ones I had.

11 MS. RALLS: No further questions, Your  
12 Honor.

13 MR. SALVATO: Your Honor, can I ask just a  
14 few questions?

15 THE COURT: Sure. Uh-huh.

16 MR. SALVATO: Thanks.

17 CROSS-EXAMINATION

18 BY MR. SALVATO:

19 Q. Good morning.

20 A. Good morning.

21 Q. My name is Frank Salvato. I represent Mr. Cerna.  
22 I want to ask you just a few questions about the  
23 document you were just looking at.

24 A. Yes.

25 Q. Okay.

1 MR. SALVATO: For the record, this is page  
2 eight.

3 BY MR. SALVATO:

4 Q. Do you have that on the screen?

5 A. I do.

6 Q. Okay. It says "contract language monitor,"  
7 says -- the first entry there is -- and this is prepared  
8 by the FBI, correct?

9 A. Yes.

10 Q. All right. The first sentence there says,  
11 "Independent contractor." What does that mean?

12 A. It means they're not full-time employees. They  
13 get a 1099.

14 Q. And so, they're contracted with the FBI?

15 A. As I understand it, yes.

16 Q. All right. Now, the second entry there, it says,  
17 "Can perform only summary translation of audio and  
18 documents." Can you explain your understanding of  
19 what -- what does that mean?

20 A. I've never worked for the FBI. I'm assuming it  
21 means that they can only do summaries and not complete  
22 translations.

23 Q. Okay. And what's the difference between  
24 summaries and complete translations?

25 A. Um, a complete translation would translate

1 every -- every idea, every sentence, not necessarily  
2 word for word, but the -- by the meaning.

3 Q. Okay. And, the same reasoning for, "can perform  
4 summary translations of live monitoring"?

5 A. I'm not sure what live monitoring is; I guess  
6 listening to the phone calls as they are conducted.

7 Q. Or perhaps a wire tap or something like that?

8 A. Right. In realtime, I guess.

9 Q. Now, the second-to-last entry says, "Cannot do  
10 verbatim translations."

11 A. I guess that means that the contract language  
12 monitors cannot --

13 THE COURT: Are you guessing or is that what  
14 you think?

15 THE WITNESS: Oh.

16 BY MR. SALVATO:

17 Q. Through your experience, what is a verbatim  
18 translation?

19 A. As I understand it, a verbatim translation is a  
20 complete translation.

21 Q. Like the documents that you've been --

22 A. Yes, correct.

23 Q. The transcripts?

24 A. Exactly.

25 Q. Those would be considered, by some, verbatim

1 translations?

2 A. Yes.

3 Q. All right. And what's the difference between a  
4 verbatim translation and just a summary?

5 A. A summary would be, um, where the translator  
6 would just, um, summarize the most important ideas in a  
7 document or in a tape. And in a verbatim translation,  
8 the translator would have to translate every sentence,  
9 as I said, not necessarily word by word, but for the  
10 meaning.

11 Q. Right. And, you were certified to testify in  
12 court; is that right?

13 A. Oh --

14 Q. All federal courts?

15 A. Interpret, not testify.

16 Q. I'm sorry. Interpret and testify about those  
17 translations; is that right?

18 You can do what these interpreters are doing?

19 A. Yeah. I'm certified to interpret in federal  
20 court, yes.

21 Q. All right. And you've testified before in court?

22 A. No.

23 Q. And, these contract language monitors, the last  
24 entry there is, "cannot testify in court." Can you give  
25 the court or the jury any reasoning behind the fact that

1 they cannot -- are not qualified to even testify in  
2 court?

3 A. I do not know.

4 Q. Okay.

5 MR. SALVATO: That's all the questions I  
6 have, Your Honor. Thank you -- oh, I had a couple more,  
7 sorry.

8 BY MR. SALVATO:

9 Q. You said there were other circumstances in the  
10 transcripts where you thought things were added. Is  
11 that right?

12 A. Um, I said that. Now, I'm wondering. Mostly,  
13 things were dropped.

14 Q. All right. Can you explain what you mean by  
15 "dropped"? That's what I was going to ask about, add or  
16 drop.

17 A. Well, for example, when he said -- most often, if  
18 the translator wrote "UI," which means unintelligible,  
19 meaning they couldn't understand the words, in some  
20 cases I did understand the words.

21 Q. Okay. So, that would be an example of how things  
22 were dropped?

23 A. Yes. That's what I meant.

24 Q. So, the language monitors would write "UI"?

25 A. Uh-huh.

1 Q. And tell me again what that means.

2 Unintelligible?

3 A. Unintelligible.

4 Q. All right. But you were able to hear what was  
5 being said?

6 A. In some cases.

7 Q. Okay. In some case.

8 And that would be a case of something being  
9 dropped?

10 A. That's what I meant by "dropped," yes.

11 Q. And then, were there other circumstances where  
12 they heard something and put something in writing that  
13 you didn't hear at all?

14 A. For example, the example being the thing about  
15 the coconut.

16 Q. All right. A lot of these are -- you've listened  
17 to three of the transcripts. Is it fair to say that  
18 what you heard, portions of the transcripts were garbled  
19 or just difficult to hear?

20 A. That's correct.

21 Q. Okay. And you listened to that one paragraph 20  
22 times or so?

23 A. I think so, yes.

24 MR. SALVATO: That's all the questions. I  
25 apologize.

1 Thank you, Your Honor.

2 MR. LEIVA: Your Honor, I can go after the  
3 government goes?

4 MS. MARTINEZ: We'll go last, Your Honor.

5 THE COURT: I don't think so. I think you  
6 have to go now.

7 MR. LEIVA: I just have a couple questions,  
8 Your Honor.

9 CROSS-EXAMINATION

10 BY MR. LEIVA:

11 Q. Good morning, ma'am.

12 A. Good morning.

13 Q. Let's talk about verbatim translations. You  
14 testified on direct that the best practice within your  
15 field is to have three columns when translating; is that  
16 correct?

17 A. The transcription and translation should have  
18 three columns, yes.

19 Q. Okay. And is that what is done within your field  
20 when someone does a verbatim translation?

21 A. Yes, I think so.

22 Q. Okay. And the reason for that is so someone can  
23 compare what the context or word is in Spanish that's  
24 being translated into English, correct?

25 A. Correct.



1 Q. Otherwise, then, when you just have a transcript  
2 as the government has submitted, whoever is reading that  
3 transcript would actually need to listen to the actual  
4 audio and try to track what's being translated, correct?

5 A. Exactly.

6 Q. All right. And so that's the reason behind  
7 having the three columns?

8 A. Yes.

9 Q. Okay. Now, when a translator who is certified,  
10 such as yourself, comes upon a word that has different  
11 meanings, what is the standard industry practice?

12 Is it to give the different meanings in the  
13 parentheses, or do you as a translator just pick what  
14 that meaning should be?

15 A. Context is everything.

16 Q. Okay.

17 A. You have to understand the context, how the word  
18 was used in the -- you know, earlier, later.

19 Q. Okay. So, for example, let's take a simple word  
20 like *loco*. Okay? And, I believe you testified on  
21 direct that they used the word *loco* a lot.

22 A. Yes.

23 Q. When you refer to "they," you're talking about  
24 Salvadorans?

25 A. Actually, I was talking about the people who were

1 being -- whose conversation was being listened to.

2 Q. Okay. Would you agree with me that the term  
3 "they" is used quite often within Latin American -- I'm  
4 sorry -- I mean the term *loco* is used quite often within  
5 certain Latin American countries?

6 A. Yes.

7 Q. Okay. And, would you agree with me that the term  
8 *loco*, other than the literal translation of meaning  
9 someone who is crazy, refers to someone like a dude, as  
10 we would use "dude" here in the United States?

11 A. Yes.

12 Q. Okay. And would you agree with me that that is  
13 the more general acceptance of the translation of *loco*  
14 when it's used when guys are talking among each other,  
15 they refer to each other as *loco*?

16 A. Well, specifically these guys. I can't say  
17 everybody.

18 Q. Okay. And, I believe you were asked to look over  
19 the credentials or the resumés of the contract linguist  
20 monitors that were used by the government in this case.

21 A. I read their testimony.

22 Q. Their testimony.

23 Did you look at their CVs or their resumés?

24 A. I think I did.

25 Q. Okay. I believe you testified that you have a

1 degree from Columbia University?

2 A. That's correct.

3 Q. Okay. And, then you have a more advanced degree  
4 from Georgetown?

5 A. It's a certificate. There are two translation  
6 certificates from Georgetown.

7 Q. Okay. Did you notice, when reviewing the  
8 credentials of the contract language monitors, whether  
9 they had, one, any college degrees or, two, any advanced  
10 certificates that you have?

11 A. I think not.

12 MS. MARTINEZ: Compound question, Your  
13 Honor.

14 THE COURT: One at a time.

15 MR. LEIVA: Yes, sir.

16 BY MR. LEIVA:

17 Q. When reviewing the credentials of the contract  
18 language monitors, did you notice whether they had any  
19 certifications?

20 A. What kind of certifications?

21 Q. Well, the kind that you have.

22 A. No, not the interpretation or translation  
23 certification.

24 Q. Okay. And would you agree with me that within  
25 your field of -- or within your industry -- and by

1 "industry," of course, I mean, translation  
2 interpreters -- that receiving a certification to  
3 testify or to translate in federal court is one of the  
4 more rigorous processes?

5 A. The federal court interpretation certification is  
6 very difficult, yes.

7 Q. Very difficult.

8 A. Yes.

9 Q. And it sounds like it was a two-year process?

10 A. Yes.

11 Q. And, did you -- when reviewing the credentials of  
12 the contract language monitors, did you notice whether  
13 any of them were certified by a federal court?

14 A. No, they were not.

15 MR. LEIVA: That's all the questions I have.  
16 Thank you, ma'am.

17 CROSS-EXAMINATION

18 BY MS. MARTINEZ:

19 Q. Good morning, Ms. Shaw.

20 A. Good morning.

21 Q. How are you doing?

22 A. Okay.

23 Q. I just have a few questions for you; won't keep  
24 you much longer.

25 I want to ask you about your court certification.

1 I want to make sure I understand. That's a  
2 certification to do what the linguists who are here in  
3 court today are doing; is that right?

4 A. Yes, that's right.

5 Q. Okay. So, that's to interpret live, in court,  
6 when people are speaking in one language?

7 A. The certification is for really three things:  
8 interpreting simultaneously in court, interpreting  
9 consecutively in court, and doing something called a  
10 sight translation. In that case, you're given a  
11 document in Spanish or English, you read the document  
12 carefully and then you interpret -- you translate it  
13 orally.

14 Q. Okay. So let me make sure I understand each of  
15 those three things. I'll take them one by one.

16 So, simultaneous interpretation, am I right that  
17 that's what some of the linguists are doing right now,  
18 as I'm talking?

19 A. That --

20 Q. They're translating what I'm saying into Spanish,  
21 so that the defendants can hear with the earpieces; is  
22 that right?

23 A. That is correct. That's simultaneous.

24 Q. And then, the consecutive interpretation, I think  
25 we've seen some examples of that in court, but that

1 would be, for example, if you were a Spanish speaking  
2 witness, and after I finish this question that I'm  
3 asking, someone were to interpret it to you for Spanish,  
4 that would be the consecutive translation?

5 A. That is consecutive.

6 Q. And then what -- the third, you called it -- was  
7 spot --

8 A. Sight translation.

9 Q. Sight translation.

10 And am I correct that that would be, for example,  
11 if, again, you were a Spanish speaking witness, and I  
12 offered you an English document and wanted to ask  
13 questions, then the interpreter would, on the spot, by  
14 sight, translate it into Spanish for you so I could ask  
15 the question?

16 A. Yes. Or in some cases, if a judge issues an  
17 order, a written order, and whoever it is needs to read  
18 the order, the interpreter has to read the order, first  
19 in English and then translate it into Spanish.

20 Q. I see.

21 So, for example, if right now Judge Lee were to,  
22 instead of orally enter an order, he were to hand all of  
23 the lawyers a piece of paper with English on it, one of  
24 the interpreters would want to read it in Spanish to one  
25 of these defendants; is that right?

1 A. Yes.

2 Q. Okay. All right. Now, the documents that you  
3 were asked to review in this case were written  
4 transcripts; is that right?

5 A. Yes.

6 Q. And, the certification that we were just talking  
7 about, that doesn't relate to preparing exhibits for  
8 court like -- like these that you reviewed; is that  
9 right?

10 A. I don't think I understand the question.

11 Q. Oh, I'm sorry. Well, so my question is, your --  
12 the certification, the very difficult certification that  
13 you had to undergo, has to do with interpretation live  
14 in court, right?

15 A. And translation.

16 Q. And translation.

17 And does it relate to preparing verbatim  
18 transcripts?

19 A. Many of my colleagues who are federally certified  
20 do this work, prepare transcripts and translations.

21 Q. Absolutely. I'm sure they do.

22 But my question was much more specific, which  
23 was: Is the certification that you're required to have  
24 in order to do what the very skilled interpreters are  
25 doing here in court today, is that certification

1 required to prepare verbatim English transcripts of a  
2 Spanish audio for use as an exhibit in a trial like  
3 this?

4 A. I guess not.

5 Q. Now, let's -- I want to talk a little bit about  
6 your particular experience. You clearly have experience  
7 with Central American dialects; is that right? Of  
8 Spanish?

9 A. Yes.

10 Q. And I guess I should step back, but would you  
11 agree with me that Spanish speakers from different  
12 countries speak in different dialects?

13 A. The vocabularies are different. The grammar and  
14 syntax is not that different, usually.

15 Q. So one word, in, for example, El Salvador might  
16 mean something different in Mexico?

17 A. That's correct.

18 Q. And so -- I said "dialect," but that's -- we can  
19 call it vocabulary, if that makes sense.

20 And also, there's slang that differs from country  
21 to country; is that right?

22 A. Yes.

23 Q. And, you are familiar with slang in El Salvador;  
24 is that what you testified to?

25 A. Somewhat.



1 Q. Somewhat.

2 How is it that you're familiar with El Salvadoran  
3 slang?

4 A. Well, I work a great deal in DC Superior Court,  
5 and the interpreter coordinator there once told me that  
6 95 percent of the people we interpret for are  
7 Salvadorans.

8 And I just interpret for Salvadorans in many  
9 other contexts, in depositions and jails, and lawyers'  
10 offices and medical appointments, as well. So I've --  
11 in addition, I have been in El Salvador a couple times,  
12 and I have Salvadoran friends.

13 Q. So, would it be fair to say that all that  
14 experience you've described would be someone speaking --  
15 a native Salvadoran speaking to someone else who is not  
16 a native Salvadoran?

17 A. Hmm. Well, I mean, I've been in events and  
18 parties where Salvadorans were talking to each other.

19 Q. Events and parties?

20 A. Sure.

21 Q. So, highly educated Salvadorans?

22 A. Not necessarily.

23 Q. Have you ever -- other than in preparing for your  
24 testimony today, have you ever been asked to translate  
25 calls, phone calls, between low-educated Salvadorans

1 speaking to each other?

2 A. I don't think so.

3 Q. Have you ever listened to, for example, a wire  
4 tap and provided summary translations of that?

5 A. I think once before I had to review a transcript  
6 of a wire tap -- oh. It was a phone conversation.

7 Q. Was that for court today, or another time?

8 A. It was another time, quite a long time ago.

9 Q. So, in addition to what you did for court today,  
10 and the one recall -- one call you reviewed -- well, how  
11 long was that? How many years?

12 A. It was several years ago. I can't remember the  
13 exact date.

14 Q. So, in addition to what you reviewed for court  
15 and that one call, have you ever been asked to translate  
16 when two native, low-educated Salvadorans are speaking  
17 to each other?

18 A. I don't think so.

19 Q. Would you agree that that's what was happening in  
20 the recordings that you listened to in court today?

21 A. Yes.

22 Q. And so that was a new experience for you?

23 A. Yes.

24 Q. Now, setting aside -- or moving on more  
25 specifically within El Salvador, what experience do you

1 have translating for members of MS-13 when they are  
2 speaking to other members of MS-13?

3 A. I would not have to translate for them.

4 Q. Fair enough.

5 What experience do you have preparing  
6 translations while listening to two -- two or more  
7 members of MS-13 speaking to each other?

8 A. I generally do not do transcriptions and  
9 translations.

10 Q. Do you have any experience at all, other than  
11 what you did for this case, that's directly related to  
12 MS-13?

13 A. Yes. There have been other cases in court,  
14 primarily, possibly in jail interviews. I've done so  
15 many jail interviews, I can't remember how many were  
16 Colombians, how many were Salvadorans. But I'm sure  
17 some of them must have been Salvadorans.

18 Q. So, would it be fair to say that all of that  
19 experience involves someone -- the experience you just  
20 mentioned would involve someone who is part of MS-13  
21 speaking to lawyers and judges?

22 A. Please repeat the question. I was distracted.

23 Q. I was, too.

24 Would it be fair to say that that experience that  
25 you just described, translating in jails and translating

1 in court, involves -- to the extent that it did --  
2 members of MS-13 speaking to professionals like lawyers  
3 and judges and juries?

4 A. Yes. Yes.

5 Q. So, do you have any experience translating  
6 members of MS-13 speaking to each other, either live or  
7 in recordings?

8 A. I find your question difficult. I would not be  
9 translating for members of MS-13 when they're talking to  
10 each other. Please rephrase the question.

11 Q. Sure. How about interpreting, for either live or  
12 in audio, two members of MS-13 speaking to each other,  
13 interpreting that into English for whoever needs to know  
14 what they're saying?

15 A. Oh, okay. So, I can't think of an occasion where  
16 that would be necessary.

17 Q. Well, for example, the transcripts that have been  
18 entered into evidence in this case, they all involve  
19 English translations of members of MS-13 speaking to  
20 each other. Would you agree with that? Or at least the  
21 ones you've reviewed?

22 A. Right. They're transcriptions and translations,  
23 yes.

24 Q. Okay. And, would you agree, based on your  
25 review -- well, let me go back to what you reviewed.

1 You reviewed the testimony of some of the linguists who  
2 testified in this court; is that right?

3 A. Yes.

4 Q. You also reviewed their qualifications?

5 A. Their CVs, yes.

6 Q. And you reviewed this inspector general's report  
7 from the FBI?

8 A. Parts of it, yes.

9 Q. Parts of it.

10 You didn't read the whole thing?

11 A. No. It's 130 pages long.

12 Q. I see.

13 Did you read the sworn declarations submitted by  
14 the FBI related to the linguist's testimony in this  
15 case?

16 A. That's the document I was referring to before.  
17 I'm pretty sure --

18 Q. I thought it was.

19 Can you just tell me the name of the declarant on  
20 that? Don't read from it otherwise, but just the name  
21 of the declarant.

22 A. Oh. Would it be at the end?

23 Oh, here it is. Gerald Roberts.

24 Q. Does he have a title?

25 A. Special agent in charge, Federal Bureau of

1 Investigation.

2 Q. All right. And based your review of all those  
3 documents, is it your understanding that the linguists  
4 whose testimony you reviewed do have experience working  
5 on MS-13 cases?

6 A. They do.

7 Q. Is it also your -- do you also agree that those  
8 linguists have experience interpreting, preparing  
9 English transcripts of members of MS-13 speaking to each  
10 other?

11 A. Yes, they do.

12 Q. Would you agree they have substantial more  
13 experience than you do with respect to interpreting into  
14 English, MS-13 slang?

15 A. Translating, yes.

16 Q. Translating. I'm sorry. I'm using those words  
17 interchangeably, and I've been admonished before that  
18 they're different. I apologize for that.

19 Let me just make sure I got that right.

20 Translating is audio into written form?

21 A. Translating is written.

22 Q. Written.

23 A. Anything that you write down is translation.

24 Q. Written into written or audio into written, but  
25 where the product is writing, correct?

1 A. Yes.

2 Q. I apologize.

3 Interpreting would be what the linguists in court  
4 are doing?

5 A. That is correct.

6 Q. All right. So, would you agree that the  
7 linguists who testified have much more experience than  
8 you do translating into English, MS-13 members who are  
9 speaking in Spanish?

10 A. Yes.

11 Q. Do you have any particular knowledge of the  
12 different vocabulary that MS-13 members use?

13 A. I have, yes. I have studied and attended  
14 workshops and done a lot of research online, and there  
15 are dictionaries.

16 Q. So, you're aware, for example, that people who  
17 are associated with or members of MS-13, they often  
18 switch the word -- order of words in sentences?

19 A. Yes.

20 THE COURT: Counsel, let's take the morning  
21 recess now for 15 minutes. Thank you.

22 (Court recessed at 11:31 a.m. and reconvened  
23 at 11:49 a.m.)

24 THE COURT: Ready to bring the jury out?  
25 Bring the jurors out, Mr. Toliver. Thank

1 you.

2 (Jury present.)

3 THE COURT: You may be seated.

4 All right, Counsel, you may proceed.

5 CROSS-EXAMINATION (Continued)

6 BY MS. MARTINEZ:

7 Q. So, Ms. Shaw, we were talking about some of the  
8 idiosyncrasies of people who are in MS-13, the way that  
9 they speak Spanish. So, we just talked about switching  
10 word order. You would agree with that, right? People  
11 in MS-13 sometimes switch the orders of words in their  
12 sentences?

13 A. It seemed to me that that was more just normal  
14 Salvadoran way of talking. Salvadorans tend to do that.

15 Q. And would -- do you know whether that's actually  
16 even more true with people who are in MS-13, or you just  
17 don't know?

18 A. I don't know.

19 Q. Again, focusing on MS-13 in particular, do you  
20 know that one of the things that MS-13 members do when  
21 they speak to each other is they make up words by taking  
22 an existing Spanish word --

23 MS. AUSTIN: Objection. I think this is  
24 more testimony than it is a question.

25 THE COURT: I don't think anything lawyers



1 say is testimony, Ms. Austin.

2 MS. AUSTIN: Well --

3 THE COURT: This is cross-examination. This  
4 is cross-examination. Leading questions are permitted.  
5 Objection overruled.

6 BY MS. MARTINEZ:

7 Q. Do you know that MS-13 members, one of the things  
8 they do is they take an existing Spanish word and they  
9 make up a word by changing the letters around in that  
10 word?

11 Are you familiar with that?

12 A. Actually, that's a very common kind of pig Latin  
13 that a lot of people do in many different Spanish  
14 speaking countries.

15 Q. We do it in English, too, right?

16 A. Right.

17 Q. Pig Latin?

18 A. Right.

19 Q. Are you aware that MS-13 members actually do it  
20 much more than other folks in Spanish speaking  
21 countries?

22 A. I did not know that.

23 THE COURT: She just asking you questions.  
24 She's not asking you to agree with her.

25 THE WITNESS: Thank you.

1 BY MS. MARTINEZ:

2 Q. That's right. I'm asking whether or not you  
3 know. Certainly you don't have to agree with me.

4 So, going back to your experience with -- well,  
5 with interpreting in particular, would you agree that  
6 Spanish speakers, when they speak in a more formal  
7 setting, sometimes adjust the way that they speak?

8 A. But we all do.

9 Q. Sure.

10 So let's start with English speakers. Would you  
11 agree that when -- when English speakers speak in a  
12 formal setting, we adjust the way that we speak?

13 A. I'm adjusting the way I speak right now. I'm in  
14 a formal setting.

15 Q. So you would agree?

16 A. Yes.

17 Q. And would you agree that applies to Spanish  
18 speakers as well?

19 A. Sure.

20 Q. And would you agree that those with higher levels  
21 of education do that more adeptly than those with lower  
22 levels of education?

23 A. Yes.

24 Q. Would you agree that, even among those with lower  
25 levels of education, some people do that more adeptly

1 than others?

2 A. Yes.

3 Q. And, then, focusing on your experience  
4 interpreting for gang members, would you agree that the  
5 way that gang members speak when they're speaking, for  
6 example, to their lawyer is different than the way that  
7 they speak to one another?

8 A. Possibly.

9 Q. What do you mean by "possibly"?

10 A. I guess I don't know. I mean --

11 Q. Would it be fair -- I mean, do you not know  
12 because you don't have a lot of experience listening to  
13 two gang members talk to each other, or for some other  
14 reason?

15 A. No. I spent the past few days listening to gang  
16 members talk to each other, so I -- possibly, when they  
17 speak to the lawyer, they try to be a little more  
18 formal, yes.

19 Q. So, let's use that as an example. In the past  
20 few days you've spent a lot of time listening to gang  
21 members talk to each other in the recordings that are in  
22 evidence in this case; is that right?

23 A. Yes.

24 Q. Would you agree that the way that these -- that  
25 these individuals spoke on the phone is different than

1 the way you've heard defendants speak, for example, to a  
2 government lawyer during a debrief?

3 A. Yes.

4 Q. Now, let's talk about the linguists whose  
5 testimony you reviewed in particular. I think that you  
6 said, based on your review of their qualifications, that  
7 they had lots of on-the-job experience?

8 A. Yes.

9 Q. What do you mean by that?

10 A. One of them said she had done 3,000 hours,  
11 listened to 3,000 hours, if I remember correctly.

12 Q. Do you think that's important?

13 A. Sure.

14 Q. How come?

15 A. The more you listen, the better you can  
16 understand, to a certain point.

17 Q. So, let's talk about that a little bit. Would  
18 you agree that the more someone listens to people in  
19 MS-13 talking to each other, the better that person is  
20 able to understand those types of recordings?

21 A. Yes.

22 Q. How many hours did you spend listening to these  
23 three recordings?

24 A. Well, five days, approximately six hours a day;  
25 maybe 30 hours.

1 Q. From hour one to hour 30, was it easier to  
2 understand what they were saying?

3 A. Yes.

4 Q. And, would you agree that one -- well, not  
5 generally speaking. In this particular instance, was  
6 context important to you, to understanding what they  
7 meant?

8 A. Yes.

9 Q. Would you also agree that as you became more  
10 familiar with their voices, it was easier to understand  
11 what they were saying?

12 A. A little bit.

13 Q. Would you think that if you listened to another  
14 few hundred calls involving the same individuals for a  
15 series of weeks or months, that may make it even easier  
16 for you to understand what they were saying?

17 A. Yes.

18 Q. Now, defense counsel in direct examination asked  
19 you some questions about the specific qualifications of  
20 the individuals who testified in court, whose testimony  
21 you reviewed. You were asked about the difference for  
22 FBI between contract language monitors and language  
23 monitors; is that right?

24 A. Yes.

25 Q. Now, prior to being asked to review this

1 inspector general's report, had you any experience with  
2 respect to FBI policies?

3 A. I once attended a workshop on working for the  
4 government and heard a presentation by a representative  
5 of the FBI.

6 Q. And did that include any information about who is  
7 or is not permitted to prepare English transcripts of  
8 Spanish language recordings?

9 A. No. It was more general.

10 Q. Did it include any information about who is or is  
11 not permitted to testify as a witness in court to  
12 transcripts?

13 A. No, I don't think so.

14 Q. Now, based on your review of the inspector  
15 general's report, but also that sworn declaration, do  
16 you have an understanding that the linguists who  
17 testified were, in fact, permitted to do so?

18 A. I don't understand the question.

19 Q. Well, defense counsel asked about whether the  
20 witnesses who have testified in court were acting within  
21 or outside of their scope of responsibilities.

22 Do you have an understanding, based on that  
23 declaration, of whether the linguists were permitted to  
24 prepare these transcripts that have been entered into  
25 evidence in this case? Permitted by the FBI?

1           A. To prepare or to testify?

2           Q. Well, I'll start -- let's start with prepare the  
3 transcripts.

4           A. Yeah. Sure.

5           Q. So you agree, they were permitted to prepare  
6 these transcripts by the FBI?

7           A. Now I'm confused. I think the -- the OIG report  
8 we reviewed said that they were not permitted to make a  
9 verbatim translation.

10          Q. And I'm asking you, based on your review of the  
11 sworn declaration, do you have a different  
12 understanding?

13          A. What I remember from the sworn declaration is it  
14 said they had a waiver permitting them to testify. I  
15 don't remember what it said about preparing translations  
16 and transcriptions.

17          Q. Okay. So we'll focus on testifying. Do you have  
18 an understanding that the witnesses whose testimony you  
19 reviewed were permitted to testify?

20          A. The declaration said that they had a waiver  
21 permitting them to testify, yes.

22          Q. All right. Now, let's talk about the transcripts  
23 in particular.

24                   MS. MARTINEZ: And actually, if we could  
25 just put up the one that you reviewed most closely,

1 Government's Exhibit 23-A-1, on the screen, the cover  
2 page.

3 BY MS. MARTINEZ:

4 Q. All right. If we look at the linguists and  
5 reviewers listed there, do you have an understanding of  
6 what "CLM" means in front of Sandra D'Sa?

7 A. Yes. Contract language monitor, I think.

8 Q. How about "CL" in front of Ramon Aguilar?

9 A. Contract linguist, I think.

10 Q. Do you have an understanding of whether contract  
11 linguists are permitted, even under the IG report, to  
12 prepare English transcripts?

13 A. I can't recall.

14 Q. Okay. Um, you didn't review that whole report;  
15 is that right?

16 A. No. It was very long.

17 Q. Did you review the testimony of Ramon Aguilar, or  
18 only -- or between the two that are on this page, did  
19 you review the testimony of Ramon Aguilar, or only  
20 Sandra D'Sa?

21 A. Just Ms. D'Sa.

22 Q. Now, would it be fair to say you're not sure what  
23 FBI policy dictates with respect to who can and cannot  
24 prepare an exhibit such as like -- such as this?

25 A. I'm not sure.



1 Q. Let me ask you a question about --

2 MS. MARTINEZ: We can leave this up.

3 Actually, let's go to -- we can go a couple pages in,  
4 just to see the typical text. Page three, maybe.

5 BY MS. MARTINEZ:

6 Q. You testified that the distinction between this  
7 and what you typically see in transcripts is that this  
8 has two columns --

9 (Witness bumps microphone.)

10 A. I'm sorry. Yes.

11 Q. -- and in your experience, three columns are  
12 used; is that right?

13 A. Yes.

14 Q. And the column that's not here would be a column  
15 in Spanish of what these speakers are saying; is that  
16 right?

17 A. Yes.

18 Q. And, am I correct that that's useful for someone  
19 who can hear both Spanish -- can understand Spanish, so  
20 that they can follow along as they listen to the  
21 recording?

22 A. Correct.

23 Q. And is that the purpose of that third column  
24 that's missing?

25 A. One of many purposes.

1 Q. Well, is one of the other purposes so that  
2 someone could more quickly review the written work of a  
3 translator like this?

4 A. Yes. And more quickly find the quote, because if  
5 you have to listen over and over to the tape, it's hard  
6 to find out where you are in the English translation.

7 Q. So, it would have made your job easier, right?

8 A. Yes.

9 Q. And, it would have made it easier for someone who  
10 understands Spanish, when they're listening to the audio  
11 recording, to follow along in the transcript; is that  
12 right?

13 A. Yes. Yes.

14 Q. Would you agree that it would make no difference  
15 to someone who does not have the ability to review --  
16 review the written Spanish?

17 A. I've seen lawyers use it, even though they don't  
18 understand Spanish very well, that you can see a proper  
19 name or some other clue in the Spanish that connects to  
20 the English.

21 Q. Would you agree that a jury should be looking  
22 only at the English, at least in a U.S. court?

23 A. No.

24 Q. Why not?

25 A. Because there are other indications in the

1 Spanish to link it to the English. As I said, there are  
2 proper names, there are things like the noises and the  
3 telephone ringing, that all of these, I think it would  
4 be helpful to jurors as well, to connect the Spanish to  
5 the English, even if they did not speak Spanish.

6 Q. Well, so the proper name appears in the English,  
7 right?

8 A. If it appears in the Spanish, you can see -- you  
9 can connect the English and the Spanish. For example,  
10 if it says, the engine -- a car engine is running, and  
11 you see that in English and in Spanish, then you know  
12 you're in the right spot. Especially if someone is  
13 testifying, then the jurors could see both languages and  
14 connect the two -- what's being said in each language to  
15 the other language.

16 Q. Well, what if the -- the person testifying is  
17 testifying in English; would it matter to be able to see  
18 the Spanish?

19 A. I think it would be helpful.

20 Q. Okay. Fair enough.

21 The things that you said would be in both  
22 languages, first was proper name; is that right?

23 A. Yes.

24 Q. Proper names do appear in this English  
25 transcript; is that right?

1 A. Right.

2 Q. And, also sounds, like car engine starting?

3 A. Yes.

4 Q. And in your review of these English transcripts,  
5 did you see places where there were brackets and then a  
6 description of noises?

7 A. Oh, yes.

8 Q. Okay. Have you ever prepared a transcript, an  
9 English transcript like this, for use as an exhibit  
10 during a jury trial?

11 A. No.

12 Q. You also reviewed the testimony of Ms. D'Sa and a  
13 couple other linguists; is that right?

14 A. Yes.

15 Q. Do you recall during that testimony, a couple of  
16 the linguists were asked questions about the word *locos*?

17 A. Yes.

18 Q. Do you recall them being asked about why they  
19 translated, on occasion, *locos* as homies?

20 A. I do recall that discussion, yes.

21 Q. And, you agree, don't you, that *locos* and homies  
22 are more or less synonyms in this context?

23 A. I believe "homies" refers specifically to a  
24 member of the gang, but the word *locos* is used so  
25 vaguely by these people that it can be -- it can be

1 confused.

2 Q. Did you write an e-mail to defense counsel on  
3 this topic?

4 A. Yes.

5 Q. And, did you write to defense counsel on  
6 April 24th, quote, "I have to say I agree with the  
7 linguists that, quote, *loco* and, quote, *homie* are  
8 basically synonyms"?

9 Is it you that wrote that?

10 A. I wrote that, and then I reconsidered it.

11 Q. Did you reconsider it because defense counsel  
12 asked you to?

13 A. Yes.

14 Q. All right. The three recordings that you  
15 reviewed, who picked them for you?

16 A. Defense counsel.

17 Q. And, that section of this Exhibit 23-A-1 that you  
18 said you listened to many times --

19 A. Uh-huh.

20 Q. -- did defense counsel ask you to focus on that  
21 section?

22 A. Yes. Yes.

23 Q. I think I have an understanding of the -- the  
24 corrections that you would make to this transcript, but  
25 I want to go over them and make sure I'm correct, okay?

1 A. Uh-huh.

2 Q. So, this -- first of all, this exhibit, this  
3 transcript, is 48 pages long; is that right?

4 A. Yes.

5 Q. Did you review the entire recording and the  
6 entire transcript, all 48 pages?

7 A. The defense counsel told me that the first hour  
8 was mainly just riding in a car. I actually started  
9 listening carefully after about 45 minutes, because  
10 I couldn't --

11 Q. What page of the transcript was that?

12 A. That's a good question. I -- actually, I did  
13 make notes on page 11. So, I was listening at that  
14 point from -- yeah. I think I started listening at  
15 about -- that's right -- 44:48, 44 minutes and  
16 48 seconds in.

17 Q. Could it be 45:48?

18 A. Well, when -- I did start where they were talking  
19 about, "The air is not working." And then I got down to  
20 45:48, and that's where I -- I thought I understood -- I  
21 heard something different from what she wrote.

22 Q. So, just to be clear, you skipped the first  
23 nearly 45 minutes --

24 A. I did.

25 Q. -- of this recording?

1 A. I did.

2 Q. And that's the first, about, 10 to 11 pages of  
3 this transcript?

4 A. The first ten pages.

5 Q. Okay. And that was at defense counsel's  
6 direction?

7 A. Yes.

8 Q. Now, I've counted, I think, the number of  
9 corrections that you would make to this entire  
10 transcript. I got to 18. Am I right about that?

11 A. Well, there were others. I just sent her the  
12 ones that I considered most important.

13 Q. The ones that you considered most important?

14 A. Yes. I think so, yeah.

15 Q. So, one of them, the first one -- correct me if  
16 I'm wrong -- the transcript says, "Did the homie ask you  
17 for permission?"

18 A. Yes.

19 Q. And, you heard, "Did the homie give you  
20 permission?"

21 A. Correct.

22 Q. And that's one of the most important ones that  
23 you heard?

24 A. No, not -- I don't think it's the most important.  
25 I really didn't rate them as important.

1 Q. The ones that you didn't note in your written  
2 comments were less important than the ones you did note?

3 A. Yes. They -- (pause).

4 Q. One of the other ones that you testified about on  
5 direct was about the interpretation of the word *paros*,  
6 p-a-r-o-s.

7 A. Yes.

8 Q. Are you familiar with that word?

9 A. I've looked it up and I've inquired to people  
10 about it. Yes.

11 Q. Who did you inquire?

12 A. Salvadorans.

13 Q. Did you inquire to anyone who has any expertise  
14 in MS-13?

15 A. I looked in a glossary of words related to MS-13.

16 Q. Did you learn that *paro* -- from that glossary,  
17 did you learn that a *paro* is a term for a particular  
18 level of association with MS-13?

19 A. That was not in that glossary.

20 Q. What glossary did you look in?

21 A. It was a glossary of Salvadoran terms.

22 Q. Was it specific about MS-13, or it just was about  
23 Salvadoran terms?

24 A. No, it was just Salvadoran terms.

25 Q. If you were to begin working on MS-13 cases full



1 time, would it be helpful to you to have a glossary  
2 prepared by people who have been interpreting MS-13 for  
3 many years?

4 A. Of course.

5 Q. And would you rely on a glossary like that?

6 A. I would.

7 Q. Do you know, now, what *paro* means in the context  
8 of MS-13?

9 A. You have told me.

10 Q. I meant, do you know from anyone else?

11 A. No.

12 Q. Did defense counsel provide you any information  
13 about MS-13 before you began reviewing these recordings?

14 A. No.

15 Q. Did you consult any experts related to MS-13  
16 before reviewing these recordings?

17 A. Only Internet sources and Salvadorans who were  
18 not members of MS-13.

19 Q. Going back to the corrections that you had, we  
20 had 18 that you listed as the most important; is that  
21 right?

22 A. Yes.

23 Q. And, of those 18, I counted -- correct me if I'm  
24 wrong -- 8 of those 18 are places where the transcript  
25 says "U/I," and you heard something; is that right?

1 A. Yes.

2 Q. And, you understood that -- do you agree that  
3 "U/I" means unintelligible?

4 A. Yes.

5 Q. So, there were places where it was apparently  
6 difficult for the person who wrote this transcript to  
7 hear, but you were able to hear; is that right?

8 A. That's correct.

9 Q. And, then there was also a place where it was  
10 difficult for you to hear, and apparently the person who  
11 wrote the transcript was able to hear; is that right?

12 A. Which one was that?

13 Q. Well, let's actually go to it. It's page 30 of  
14 the transcript.

15 So, at the top of the page there, the transcript  
16 says, "I told them right there, go right now, take these  
17 homies over there" unintelligible "you know. We took  
18 him there to rip his coconut off. And there, that's it,  
19 then" unintelligible. "So later I told Tuner"  
20 unintelligible "that was homie, Leopardo, they went  
21 there. We went there to do another thing with this  
22 homie, and then we called him" -- unintelligible. And  
23 it continues.

24 That's the section that you had difficulty  
25 understanding?

1 A. Yes.

2 Q. You also -- I think you said on direct  
3 examination that in that section there was a name that  
4 you couldn't understand; is that right?

5 A. Either Soya or Hoya. And I don't see that in the  
6 translation, either.

7 Q. There is places in the translation that say  
8 "unintelligible," right?

9 A. Yes.

10 Q. Could it be in one of those places?

11 A. I think so.

12 Q. Did you hear the word, *soyapa*?

13 A. No.

14 Actually, I think it was the first  
15 unintelligible, where it says, "Take those homies over  
16 there," I heard something that sounded like Hoya or  
17 Soya, and I didn't know what it was.

18 And then it became garbled -- well, I heard, "We  
19 took him there," and then it became garbled. And I  
20 listened over and over again, and all I could hear was  
21 something that sounded like *locos*.

22 Q. Would you agree that *cocos* and *locos* sound  
23 similar?

24 A. Of course.

25 Q. *Cocos* means coconut?

1           A.    It could mean coconut.  It could mean head.

2           Q.    So, it could be that this means, "We took him  
3 there to rip his head off"?

4           A.    To me, it did not mean that.  I did not hear  
5 that.

6           Q.    Because you couldn't hear it or because it meant  
7 something different?

8           A.    I could not hear it.

9           Q.    And defense counsel asked you to listen to this  
10 part in particular?

11          A.    Yes.

12          Q.    Going back to the testimony that you reviewed, of  
13 the linguists, do you also recall reviewing a section  
14 where one of the attorneys asked one of the linguists  
15 about the word *fierro*, f-i-e-r-r-o?

16          A.    Yes, I do.

17          Q.    You agree -- do you agree that *fierro*  
18 traditionally translates to knife or blade?

19          A.    Yes.

20          Q.    And, you also agree, don't you, that in context  
21 it could mean gun?

22          A.    There is not enough context to say.  Because it  
23 just said, "He had a *fierro*."  That's not enough  
24 context.

25          Q.    Would you agree that, in that context, it may

1 have meant gun?

2 A. No.

3 Q. Did you write an e-mail to defense counsel on  
4 April 24th, in which you said, "However, I think *fierro*  
5 generally refers to a knife or blade, although it is not  
6 impossible that, by extension, they may have meant a  
7 gun"?

8 A. But, I -- you could not say it meant gun unless  
9 it was in a sentence that said something like, "He shot  
10 four bullets from the *fierro*." If you just said, "He  
11 had a *fierro*," you would have to choose the most common  
12 meaning because there's no context. When you just say,  
13 "He had a *fierro*," there is no context, so you choose  
14 the most common meaning, which is knife.

15 Q. First of all, is that what you said in an e-mail  
16 to defense counsel?

17 A. Yes. But I'm elaborating on it now.

18 Q. Sure.

19 Did she ask you to reconsider that?

20 A. No, she did not.

21 Q. Just the part about homies?

22 A. Yes. I did some additional research to confirm  
23 my belief that it was knife, and I found multiple  
24 examples where it is, indeed, knife.

25 Q. Setting aside that context, which you are not

1 sure you can determine, would you agree that in the  
2 right context, the word *fierro* may, in fact, mean gun?

3 A. If it said, "He fired four bullets from the  
4 *fierro*," I would think it meant gun. But I've never  
5 seen it used in that way.

6 Q. But when you were reviewing it for defense  
7 counsel, you thought that it was not impossible that, by  
8 extension, they may have meant a gun; is that right?

9 A. It's not impossible if the context made that  
10 clear, but the context did not make that clear.

11 Q. How long was this recording, Exhibit 23, or at  
12 least the portion that you were asked to review after  
13 minute 44?

14 A. It was very long. Let's see. I got down to an  
15 hour and a half, an hour -- okay. I -- I was still  
16 listening at an hour 32:45. And then I continued to  
17 listen, but -- maybe I shouldn't have made a judgment.  
18 It seemed to me it was not at important at this point,  
19 when they were just leaving the place where they had  
20 been, and then the police were following them. And  
21 apparently it stopped at about two hours.

22 Q. So, in total, how long was the part that you  
23 listened to?

24 A. Well, I listened to the whole thing after 45  
25 minutes.

1 Q. So, did you listen to two hours, or the whole  
2 thing is two hours and you skipped the first 44?

3 A. I skipped the first 45.

4 (Pause.)

5 Q. I'm sorry. I was waiting --

6 A. I skipped the first 45 minutes. I listened to  
7 the rest.

8 Q. And my question was: How long was the section  
9 that you listened to?

10 Was it two hours, or was it two hours minus  
11 45 minutes?

12 A. It was -- it must have been -- well, I stopped  
13 noting the times after an hour and a half, but there was  
14 quite a bit after that. So it may have been two hours  
15 minus 45 minutes.

16 Q. Well, so, let's say that it was. In an hour and  
17 15 minutes, of the most important corrections that you  
18 noted, you found 18; is that right?

19 A. I found more. I did not write them all down.

20 Q. Well, I just want to make sure I understand your  
21 testimony. Is your testimony that you wrote down the  
22 most important ones?

23 A. The ones that were most obvious to me. I don't  
24 think I'm in a position to decide what's most important.

25 Q. Okay. But, so the ones that were most obvious --

1 A. Yes.

2 Q. -- in an hour and 15 minutes you had 18 to note;  
3 is that right?

4 A. The most obvious. I could have written down many  
5 more.

6 Q. Did you write down any others?

7 A. I have notes here with many others.

8 MS. MARTINEZ: Your Honor, may we approach?

9 THE COURT: Yes.

10 (Thereupon, the following side-bar  
11 conference was had:)

12 THE COURT: Did you hear that?

13 MS. RALLS: Yes, Your Honor.

14 THE COURT: The witness says she has more  
15 notes. She's your expert.

16 MS. RALLS: Your Honor, I requested that she  
17 turn over any notes that she had. And -- everything I  
18 had, I gave to the government. I -- I instructed the  
19 witness to turn over any additional notes. I mean, I'm  
20 certainly happy for her to have the government look at  
21 them.

22 THE COURT: No, I don't think we can make it  
23 up on the stand. We can only focus on what you have  
24 notes about.

25 MS. MARTINEZ: I agree with that, Your



1 Honor, although I think an adverse inference should be  
2 drawn here.

3 THE COURT: Well, I'm not going to do that.  
4 If there's something else you want me to do, tell me  
5 what it is.

6 MS. MARTINEZ: Your Honor, I suppose we  
7 would request a jury instruction that the witness's  
8 testimony about writing many more things down is not  
9 something that was provided either to the government or,  
10 apparently, to the defense counsel, and they should  
11 disregard any testimony about any alleged corrections  
12 that no one in this court has had a chance to look at.

13 THE COURT: Well, I think you can ask her  
14 that question. Objection sustained.

15 So we're talking about things that she has  
16 in her notes, but defense -- the government can ask  
17 questions about: You have things that you have not  
18 given to the lawyer who hired you.

19 (Thereupon, the side-bar conference was  
20 concluded.)

21 BY MS. MARTINEZ:

22 Q. Ma'am, the additional notes that you have there,  
23 did you ever provide them to defense counsel?

24 A. No. I have copies of -- I brought copies of some  
25 of them.

1 Q. Did you ever provide them to government counsel?

2 A. No. I asked if I could consult them while I'm  
3 here, and she said yes, but I should have copies of  
4 them. So I did make copies of them, most of them.

5 Q. Am I understanding correctly that you told  
6 defense counsel that you had additional notes beyond  
7 what was provided to the lawyers in this case?

8 A. I said I had scribbled all over the text, and  
9 asked if I could refer to these scribblings.

10 And she said yes, but that I should have copies  
11 of them. So I brought copies of them.

12 Q. When was that communication?

13 A. Yesterday or the day before.

14 Q. So a day or two ago you told defense counsel that  
15 you had notes beyond what the lawyers have here to ask  
16 you questions about?

17 A. It's just --

18 Q. Am I understanding that correctly?

19 A. I wrote all over these transcripts, and I asked  
20 her if I could refer to these notes.

21 Q. And she told you to bring copies when you came to  
22 court?

23 A. Right. And the copies are here.

24 Q. Did she ask you to send them to her in advance?

25 A. No.

1 Q. Did she ask you to get them to government counsel  
2 in advance?

3 A. You know, I didn't know what I should have done,  
4 so --

5 Q. Oh, no. I'm asking you what defense counsel told  
6 you to do.

7 A. Yes. She said it would be good to have copies,  
8 she said.

9 Q. Did she tell you it would be good to have copies  
10 before lawyers are standing up asking questions?

11 A. I guess not.

12 Q. Okay. So, I'm going to focus only on the things  
13 that you actually provided, at defense counsel's  
14 instruction, to the lawyers in this case; is that fair?

15 A. Good. Yes.

16 Q. Okay. So, of the things that -- that you saw fit  
17 to write up and provide to defense counsel, there were  
18 18 corrections; is that right?

19 A. Yes.

20 Q. All right. And of those 18 corrections, eight of  
21 them were instances where the person preparing the  
22 transcript was unable to hear a few words and you did  
23 hear a few words; is that right?

24 A. Yes.

25 Q. And, one of them was the -- the part on page 30

1 we just looked at, that defense counsel asked you to  
2 focus on --

3 A. Yes.

4 Q. -- where you couldn't hear, but the person  
5 preparing the transcript could; is that fair?

6 A. Yes.

7 Q. Are you aware whether or not multiple people have  
8 listened to and reviewed this transcript?

9 A. I think it said that the one person reviewed --  
10 one person did it and the other person reviewed it.

11 Q. Were you provided, by defense counsel, testimony  
12 by someone who goes by the name Junior?

13 A. All his testimony?

14 Q. Were you provided any testimony by a witness who  
15 goes by the name --

16 A. No.

17 Q. -- Junior?

18 No?

19 A. No.

20 Q. Were you informed by defense counsel that Junior  
21 had reviewed the audio recording and the transcript?

22 A. No.

23 Q. All right. Of these corrections that you've made  
24 here that you -- that you noted down, am I correct that  
25 one of them, the quote was, "locked up the" -- the quote

1 in the transcript was, "locked up for screwing his  
2 woman," and you heard, "screwing his woman when he was  
3 locked up."

4 A. Yes.

5 Q. And that was one of the important corrections  
6 that you wanted to note; is that right?

7 A. Yes.

8 Q. Of the unintelligible translations, am I correct  
9 that one of them, the linguist put "unintelligible" and  
10 you heard, "is that all?"

11 A. Yes.

12 Q. Am I also correct that one of the other places  
13 where the transcript said "unintelligible," you heard,  
14 "they told me"?

15 A. Yes.

16 Q. Are those typical examples of the kinds of  
17 corrections that you found in this transcript?

18 A. I don't know what you mean by "typical." There  
19 were many kinds of -- many things that I noted that I  
20 thought should have been done differently.

21 Q. Well, I'm talking just about the translation.  
22 We've already talked about the three columns. I  
23 understand you think that should have been done  
24 differently.

25 But talking specifically about translating the

1 spoken Spanish by MS-13 member into written English, you  
2 wrote down and provided to counsel, 18; is that right?

3 A. Yes.

4 Q. And, I just went over more than half of them; is  
5 that correct?

6 A. I think so.

7 Q. Okay. And so, the examples I gave are the  
8 majority of what you saw; is that right?

9 A. The majority?

10 Q. I went over more than half of your 18  
11 corrections; am I correct?

12 A. I'd have to look at it. I think -- I thought you  
13 said eight.

14 Q. All right. Well, let's start again. There's 18  
15 total, right?

16 A. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
17 15, 16, 17 -- yes.

18 Q. Eight of them are instances where you heard a  
19 couple words, and the transcripts says "unintelligible,"  
20 right?

21 A. Well, not always "unintelligible." There's some  
22 where words were left out, like the word, "to  
23 Woodbridge."

24 Q. Well, I'm focusing on the ones where you say --

25 A. Unintelligible.

1 Q. -- translation says something unintelligible, I  
2 heard. There's eight of those examples, right?

3 A. 1, 2, 3, 4, 5, 6, 7, 8, yes.

4 Q. And, there's one where you weren't able to hear,  
5 the thing about ripping off the coconut or the head?

6 A. Yes.

7 Q. There's also, we talked about an example earlier,  
8 the word *paros*?

9 A. Yes.

10 Q. Which you weren't familiar with, right?

11 A. Not that meaning.

12 Q. Right. So that's nine.

13 We talked about the one where the translation  
14 says, "Did the homie ask you for permission," and your  
15 correction is, "Did the homie give you permission?"

16 A. Correct.

17 Q. That's ten.

18 We also talked about where the transcript said,  
19 "locked up for screwing his woman," and you heard,  
20 "screwing his woman when he was locked up" --

21 A. Correct.

22 Q. -- is that right?

23 A. Yes.

24 Q. Okay. So, are we at over half now?

25 A. You tell me.

1 Q. Well, you're the witness.

2 A. But, you did the math. I --

3 Q. Okay. Well, let's see if we can do the math  
4 again.

5 There's eight where the transcripts says  
6 "unintelligible," right?

7 We agreed on that?

8 A. Yes.

9 Q. And there's one where you couldn't hear the thing  
10 about knocking the coconut or the head off, right?

11 A. Yes.

12 Q. That puts us at nine. Am I -- are you with me on  
13 the math?

14 A. Yes.

15 Q. Okay. Then, we talked about, "Did the homie ask  
16 you for permission?" Now we're at ten; is that right?

17 A. "Did the homie ask for permission?" Yeah.

18 I'm not sure I understand the point of this  
19 exercise, but go ahead.

20 Q. My question is just: Did we go over half of the  
21 corrections that you provided to counsel?

22 A. Yes.

23 Q. Did we go over more than half of them; that's my  
24 only question.

25 A. I guess I'm getting tired.



1           So, the one about "locked up for screwing his  
2 woman" was not an unintelligible one, correct?

3           You're just counting all of them now?

4           Q. I'm just trying to cover the basis of all 18 that  
5 you -- that you noted and thought significant enough to  
6 provide to counsel. Am I correct?

7           A. I guess so. I just -- (pause).

8           Q. There's another one here where the transcript  
9 says that the translation, quote, "was the dude a thug?"  
10 And am I understanding correctly that the Spanish word  
11 you heard was *pelón*, p-e-l- with an accent -- -n?

12          A. O-n, yes.

13          Q. Oh, sorry. P-e-l-o, with an accent, -n; is that  
14 right?

15               Am I correct?

16          A. Yes.

17          Q. That that's the word you heard?

18          A. Yes.

19          Q. And *pelón*, I understand you to -- am I correct  
20 that you believe *pelón* sometimes means asleep?

21          A. Sometimes.

22          Q. Do you know what it means in MS-13 slang?

23          A. Well, it also means that someone is bald. But,  
24 no, I don't know.

25          Q. So, the word *pelón* in one context might mean

1 bald; is that right?

2 A. Yes.

3 Q. In another context it might mean asleep, right?

4 A. Yes.

5 Q. And you're not sure what it would mean to someone  
6 who is speaking to another MS-13 member --

7 A. Correct.

8 Q. -- is that right?

9 A. Yes.

10 MS. MARTINEZ: Your Honor, I have no further  
11 questions.

12 THE COURT: All right.

13 REDIRECT EXAMINATION

14 BY MS. RALLS:

15 Q. Hi, Ms. Shaw.

16 A. Yes.

17 Q. I have a few more questions for you.

18 You were asked about your certification to  
19 interpret in federal court. How does the difficulty and  
20 the skills required for interpreting in court compare to  
21 the skills required to translate audio recordings?

22 A. Well, they're similar. The court -- the federal  
23 test, when I took it, also involved listening, although  
24 not transcribing, but just listening to recordings.

25 Q. Have you interpreted for alleged gang members in

1 the past?

2 A. Yes.

3 Q. How many times?

4 A. I don't know.

5 Q. More than ten?

6 A. I really don't know.

7 Q. Okay. Do you recall how many cases you've  
8 interpreted for in court that involved alleged gang  
9 members?

10 A. Several. I can't say how many.

11 Q. And, when you're interpreting in court or for  
12 attorneys, do the people -- or how much slang, if any,  
13 do the people you're interpreting for use?

14 A. A lot of slang.

15 Q. In your opinion, does the amount of slang that  
16 they use change base on the setting?

17 A. It depends on the person. Some people who have  
18 not had the benefit of a formal education use slang all  
19 the time.

20 Q. Have you interpreted for people like that?

21 A. Yes.

22 Q. How many hours do you estimate that you  
23 personally have spent listening to Salvadorans speak?

24 A. Oh, I've been listening to Salvadorans speak  
25 since I was a teenager, or younger.

1 Q. What about listening to alleged gang members  
2 speak?

3 A. That would be many fewer hours. Um, in a --  
4 aside from all this, I've heard a few when they were  
5 interviewed by their lawyers. That's mostly when I  
6 heard them, was when they were talking to their lawyers.  
7 And I can't give a number of hours.

8 Q. Now, I wanted to ask you some questions about the  
9 three-column format and the word *loco* that government  
10 counsel asked you about.

11 How would the three-column format assist a  
12 non-Spanish speaker, if at all, to determine the meaning  
13 of *loco*?

14 MS. MARTINEZ: Objection, Your Honor,  
15 leading.

16 THE COURT: Overruled.

17 THE WITNESS: Um, I'm not sure if the  
18 three-column format would really help the non-Spanish  
19 speaking person understand the term *loco* any better.

20 BY MS. RALLS:

21 Q. Let me rephrase that. You talked about the word  
22 *loco*. And how many different meanings can the word *loco*  
23 have?

24 A. Well, I think it would be translated a lot of  
25 different ways. If you want to vary the language, dude,

1     guy, fellow, buddy.

2         Q.   Without the three-column format, would you be  
3     able -- would a non-Spanish speaker be able to tell if  
4     that's the same Spanish word, *loco*, that's being  
5     translated those different ways?

6         A.   It might be helpful to have the three columns,  
7     yes.

8         Q.   Does the lack of the three-column format have any  
9     effect on the chance for confusion and error in the  
10    transcription?

11        A.   A trans- -- a chance for confusion or error by  
12    whom?

13        Q.   Well, by people that are reading the transcript.  
14    Let's start with that.

15        A.   It would be helpful to have the three columns,  
16    yes.

17        Q.   Would it be helpful for people that didn't speak  
18    Spanish?

19        A.   I think it would, in the sense that when I've  
20    worked with lawyers in jail interviews and they have  
21    transcriptions with three columns, they are non- -- they  
22    don't speak Spanish, but they do refer back and forth to  
23    the Spanish and the English columns. They're able to  
24    place a quote -- an English quote with reference to the  
25    Spanish quote. And I think they find it helpful. They

1 seem to use all three columns when they're talking to  
2 their client.

3 Q. When you reviewed the testimony of the contract  
4 language monitors, did you see anything about what they  
5 had done with the notes that they made?

6 A. No.

7 Q. Did you review the process that they took to make  
8 their translations?

9 A. I recall the part about listening to the tape  
10 over and over again, as you have to do. I recall the  
11 part about how they had the foot pedal so they were able  
12 to go back to a specific spot and listen again, because  
13 I know I wish I had a foot pedal.

14 And I do remember the part about consulting  
15 glossaries, consulting other people, sometimes agents,  
16 sometimes their supervisors.

17 That's what I remember about their testimony.

18 Q. Do you remember anything they said about what  
19 they did with notes that they made?

20 A. No.

21 Q. To a reasonable degree of certainty in your  
22 profession, were there mistakes in these transcripts  
23 that you reviewed?

24 A. There were some mistakes, yes.

25 Q. Were -- were there mistranslations?

1 A. There were some.

2 Q. And, were there omissions or additions?

3 A. There were omissions.

4 Q. Were there any additions?

5 A. I'm not sure about that.

6 Q. Okay.

7 MS. RALLS: No further questions.

8 THE COURT: May the witness be excused?

9 MR. SALVATO: Your Honor, could I have a  
10 follow-up? Can I ask a few follow-up?

11 MS. MARTINEZ: Your Honor, recross is  
12 typically not permitted.

13 THE COURT: No, no recross. Thank you.

14 MR. SALVATO: Thank you, Your Honor.

15 MS. RALLS: Yes, Your Honor. This witness  
16 may be excused.

17 THE COURT: All right. You're free to  
18 leave. Thank you for coming.

19 (Thereupon, the witness withdrew from the  
20 stand.)

21 MS. RALLS: Court's indulgence, Your Honor.

22 Your Honor, at this time, I'd like to read a  
23 stipulation that the parties have agreed to --

24 THE COURT: All right.

25 MS. RALLS: -- about some evidence that I

1 would like to admit.

2 THE COURT: A stipulation is an agreement by  
3 the parties that you're to consider, ladies and  
4 gentlemen.

5 MS. RALLS: "The defendants and the United  
6 States of America, by and through their undersigned  
7 counsel, hereby stipulation and agree as follows:

8 "The pictures labeled as Castillo Exhibits 1  
9 through 5 are true and accurate depictions of Omar  
10 Dejesus Castillo.

11 "The parties further stipulate that the  
12 'WJJD' in Mr. Castillo's tattoo stands for 'what would  
13 Jesus do'; And that Imelda is the name of Omar Dejesus  
14 Castillo's mother."

15 And, Your Honor, that has been marked as  
16 Defendants' Exhibit Castillo 6.

17 At this time, we move to admit the  
18 stipulation and the five pictures.

19 THE COURT: All right. Received.

20 MS. RALLS: Thank you, Your Honor.

21 MS. AMATO: Your Honor?

22 THE COURT: You may proceed.

23 MS. AMATO: Thank you.

24 At this time we would like to play the  
25 recording of Cosmo Gonzalez. I would just ask the



1 Court's permission for Ms. Bishop to place, as she is  
2 doing right now, two speakers on the rail in front of  
3 the jury.

4 We are hopeful that this time the recording  
5 will be heard better. And Ms. Bishop will also be  
6 sitting at the table behind government counsel.

7 THE COURT: I think we need to have an  
8 interpreter sit over there, so they can hear. Don't you  
9 think?

10 MS. AMATO: It -- it doesn't need to be  
11 interpreted.

12 THE COURT: It doesn't need to be  
13 interpreted?

14 MS. AMATO: It's interpreted while --

15 THE COURT: Okay. All right.

16 MS. AMATO: And, of course, if the jury  
17 cannot, for whatever reason, hear again, we would ask  
18 that they let us know.

19 Thank you.

20 (Thereupon, the video deposition of Cosmo  
21 Gonzalez was played to the jury.)

22 (Video stopped.)

23 THE COURT: All right. Ladies and  
24 gentlemen, we're going to recess for lunch until  
25 2:00 o'clock.

1 Please do not discuss the case. Don't  
2 permit the case to be discussed in your presence. And  
3 leave your notes in the jury deliberation room.

4 We will resume at 2:00 o'clock. Thank you.  
5 (Court recessed at 1:05 p.m. and reconvened  
6 at 2:05 p.m.)

7 THE COURT: Ready to bring the jury out?

8 MS. AMATO: Yes, Your Honor.

9 THE COURT: All right.

10 You can bring our jurors out. Thank you.  
11 (Jury present.)

12 THE COURT: You may be seated.

13 MS. AMATO: Your Honor, may we proceed?

14 THE COURT: I was waiting for Mr. Toliver to  
15 come back. Okay.

16 Are you done? You're coming out? Are you  
17 going to come across the TV screen, or are you going to  
18 stay in the corner? Okay.

19 All right. Now you may proceed.

20 MS. AMATO: Thank you, Your Honor. At this  
21 time we will continue.

22 (Video deposition of Cosmo Gonzalez  
23 continued to be played.)

24 MS. AMATO: Thank you, Your Honor.

25 THE COURT: All right. Are you done?

1 MS. AMATO: Yes, we are done. Thank you.

2 THE COURT: So, defense rests?

3 MS. AMATO: Yes, we do rest. On behalf of  
4 Jesus Chavez, we rest.

5 THE COURT: Okay.

6 MS. MARTELL: Your Honor, at this time we  
7 call Hector Chavarria.

8 THE CLERK: Please raise your right hand.  
9 (Witness sworn.)

10 THE WITNESS: Yes.

11 THE COURT: You can have a seat, sir. Thank  
12 you.

13 THEREUPON, HECTOR MOLINA CHAVARRIA, having  
14 been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MARTELL:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. If you can pull the mike close to you.

20 A. (Complies.)

21 Q. I'm going to have you please state your name for  
22 the record; and if you could spell your last name for  
23 the benefit of the court reporter.

24 A. My name is Hector Molina Chavarria. You want me  
25 to just spell my whole name?

1 Q. Please. That would be helpful for her.

2 A. Hector is H-e-c-t-o-r, Jocue, J-o-c-u-e, Molina,  
3 M-o-l-i-n-a, and Chavarria is C-h-a-v-a-r-r-i-a.

4 Q. Thank you.

5 Do you know someone that goes by the name of Lil  
6 Payaso?

7 A. Yes.

8 MS. MARTELL: Your Honor, with your  
9 permission, I'd like to show the witness what has been  
10 introduced into evidence as Government's Exhibit 67-C.

11 THE COURT: All right.

12 BY MS. MARTELL:

13 Q. Mr. Chavarria, if you could look at the screen.  
14 Do you recognize the individual in that photograph?

15 A. Yes.

16 Q. Who is that individual?

17 A. Lil Payaso.

18 Q. Thank you. Thank you.

19 I want to direct your attention to the evening of  
20 March 29th, 2014, the night Gerson Aguilar Martinez was  
21 killed. Do you remember being near the area of  
22 Holmes Run Park that evening?

23 A. Yes.

24 Q. Is it correct that you were in that area at two  
25 different points near Holmes Run Park that evening?

1 A. Yes.

2 Q. During those times, did you see individuals that  
3 you believed were associated with MS-13, PVLS?

4 A. Yes.

5 Q. At any point that evening, did you see my client,  
6 who was in the picture on 67-C, Omar Dejesus Castillo --

7 A. No.

8 Q. -- known to you as Lil Payaso?

9 A. No.

10 MS. MARTELL: Thank you.

11 Your Honor, no further questions for this  
12 witness.

13 MR. AMOLSCH: I have two brief questions.

14 CROSS-EXAMINATION

15 BY MR. AMOLSCH:

16 Q. Good afternoon, sir.

17 A. Hello.

18 Q. I'm the lawyer for Mr. Cerna.

19 How are you today?

20 A. Good.

21 Q. I'm going to ask you some very specific questions  
22 regarding the questions that the other attorney just  
23 asked you. Okay?

24 So, my understanding is that at some point you  
25 returned to the park to pick up some people who had --

1 you had previously dropped off regarding Mr. Aguilar's  
2 murder, that the government -- defense lawyer just asked  
3 you about. Do you remember that?

4 A. Yes.

5 Q. Okay. Now, specifically, what I'm asking you is:  
6 You gave some people a ride home after that evening; is  
7 that correct?

8 A. Yes.

9 Q. And, I believe you saw that one of the people in  
10 that car had blood on them. Do you remember that?

11 A. Yes.

12 Q. All I'm going to ask you, sir, is: Mr. Cerna was  
13 not the one who had the blood on him; is that correct?

14 A. Yes.

15 Q. Mr. Cerna was sitting right next to you in the  
16 passenger's seat; is that correct?

17 A. I guess, yeah.

18 Q. Okay. So you had an opportunity to view him?

19 A. Huh?

20 Q. So you had an opportunity to see him, correct?

21 A. Yes.

22 Q. And he drove all the way back with you in the  
23 car?

24 A. Yeah.

25 Q. All right. And you saw him walk towards you

1 prior to him getting into the car?

2 A. Yes.

3 MR. AMOLSCH: That's all I have, Judge.

4 Thank you.

5 CROSS-EXAMINATION

6 BY MS. MARTINEZ:

7 Q. Sir, you weren't there for the murder, right?

8 A. Sorry?

9 Q. You were not there for the murder, right?

10 A. No.

11 MS. MARTINEZ: No further questions, Your  
12 Honor.

13 May the witness be excused?

14 THE COURT: Yes.

15 (Thereupon, the witness withdrew from the  
16 stand.)

17 MS. MARTELL: Your Honor, on behalf of  
18 Mr. Castillo, we rest.

19 MR. JENKINS: Your Honor, there is a matter  
20 before Mr. Lopez Torres proceeds that I do believe needs  
21 to be addressed by the Court outside the presence of the  
22 jury.

23 THE COURT: Should I send the jury out or do  
24 I need to have a sidebar?

25 MR. JENKINS: No, Your Honor, I think this

1 is one that would require the jury to be excused.

2 THE COURT: All right.

3 If you all would step out for a moment,  
4 please. Thank you.

5 (Jury not present.)

6 THE COURT: You may be seated.

7 MR. JENKINS: Thank you, Your Honor.

8 May it please the Court. Your Honor,  
9 Mr. Lopez Torres wishes to exercise his Fifth Amendment  
10 right to offer testimony on his own behalf.

11 Before he does so, Your Honor, I think it  
12 would be prudent for the Court to make a limited inquiry  
13 of Mr. Lopez Torres as to whether or not he appreciates  
14 and understands his Fifth Amendment rights to remain  
15 silent during the course of this trial.

16 THE COURT: All right.

17 Stand up, Mr. Lopez Torres.

18 Can you hear me okay?

19 Mr. Lopez Torres, under our law, you have  
20 the absolute right not to testify. Do you understand?

21 DEFENDANT LOPEZ TORRES: Correct.

22 THE COURT: The judge and the jury cannot  
23 consider if you decide not to defend. Do you  
24 understand?

25 DEFENDANT LOPEZ TORRES: Yes.



1 THE COURT: If you take the stand and  
2 testify, then you'll be open to any question that the  
3 lawyers want to ask of you about your alleged  
4 involvement in this case. Do you understand that?

5 DEFENDANT LOPEZ TORRES: I do.

6 THE COURT: All right. If you are convicted  
7 and I have to decide whether or not you lied on the  
8 stand, I am permitted under law to consider that. Do  
9 you understand that?

10 DEFENDANT LOPEZ TORRES: Okay.

11 THE COURT: Okay. And, have you made your  
12 own informed choice that you want to testify?

13 DEFENDANT LOPEZ TORRES: (Indicating.)

14 THE COURT: I need you to speak out loud.  
15 Did you say yes?

16 DEFENDANT LOPEZ TORRES: Yes.

17 THE COURT: Okay.

18 Yes, Mr. Amolsch.

19 MR. AMOLSCH: Thank you, Judge.

20 We have the issue with homeboy two and  
21 Mr. Cerna --

22 THE REPORTER: I'm sorry?

23 THE COURT: There's a microphone right  
24 there.

25 MR. AMOLSCH: Your Honor, Mr. Amolsch,

1 Christopher Amolsch, for Mr. Cerna.

2 We have the homeboy two, homeboy three,  
3 Christian Cerna issue as it relates to the Lagrima  
4 murder that Mr. Lopez Torres was present at.

5 THE COURT: Allegedly present at.

6 MR. AMOLSCH: Allegedly -- I'm sorry,  
7 allegedly present at, at least according to the  
8 government's proof.

9 So, I'm not certain how to handle that. I  
10 know that your Court has instructed the government's  
11 witnesses and --

12 THE COURT: I'm happy to instruct Mr. Lopez  
13 Torres of the same right now.

14 MR. AMOLSCH: Thank you, Judge. I'm not  
15 sure how --

16 THE COURT: If he's going to cover that.  
17 I'm assuming that he probably is.

18 MR. AMOLSCH: That's my point, Judge.

19 THE COURT: All right.

20 MR. AMOLSCH: Thank you.

21 THE COURT: Mr. Jenkins, have you spoken to  
22 your client about that issue?

23 MR. JENKINS: I have not, Your Honor.

24 THE COURT: Okay.

25 MR. JENKINS: But I certainly, Your Honor,

1 am prepared to ask a leading question, if I am going to  
2 be permitted to do so, when I cover that area concerning  
3 homeboy two.

4 THE COURT: Mr. Lopez Torres, I've made a  
5 judgment, a rule, that no one may testify that Mr. Cerna  
6 may have been present at the Lagrima incident. Do you  
7 understand?

8 DEFENDANT LOPEZ TORRES: Correct.

9 THE COURT: Which means you may not use his  
10 name if you decide to talk about what happened at the  
11 Lagrima murder. Do you understand?

12 DEFENDANT LOPEZ TORRES: Correct.

13 THE COURT: And, if you feel the need to  
14 give a name --

15 Did we decide --

16 MR. JENKINS: Homeboy two.

17 THE COURT: Homeboy two.

18 DEFENDANT LOPEZ TORRES: Correct.

19 THE COURT: -- you're to use the word  
20 homeboy two. Do you understand?

21 DEFENDANT LOPEZ TORRES: Correct.

22 THE COURT: All right. Now, tell me what I  
23 just asked you to do.

24 DEFENDANT LOPEZ TORRES: You said if I give  
25 testimony, I should not use the name of Christian Lemus.

1 Rather, you use the synonym homeboy two.

2 THE COURT: Only as to the Lagrima murder;  
3 not to the reburial, just to the murder.

4 DEFENDANT LOPEZ TORRES: Correct.

5 THE COURT: Say it again. Tell me what I  
6 asked you to do.

7 DEFENDANT LOPEZ TORRES: I should only not  
8 mention Christian Lemus with regard to the Lagrima  
9 murder as homeboy two, and not the other case.

10 THE INTERPRETER: The witness said, "I  
11 should only mention Christian Lemus in Lagrima case and  
12 not in the other cases." I think that's --

13 THE COURT: No, only in the murder of  
14 Lagrima.

15 DEFENDANT LOPEZ TORRES: Correct.

16 THE COURT: You're going to say something,  
17 Ms. Martinez?

18 MS. MARTINEZ: Yes, Your Honor. Your Honor,  
19 trust me when I say that no one wants this to be  
20 complete more than -- than the government at this point.  
21 But, we have to protect the record here. This is, I  
22 believe, the last witness in this case. This is the  
23 last opportunity for this to go wrong. We do not want  
24 to see a mistrial here.

25 Your Honor, from our experience in preparing

1 witnesses who committed these crimes and have similar  
2 level of language skills and probably educational  
3 background and cultural background as this individual, I  
4 would suggest that it takes more time than that very  
5 short colloquy in open court to explain this concept.

6 And, as Your Honor saw during trial, despite  
7 a lot of explanation, at least from the government, to  
8 some witnesses, there were a couple slip-ups. So at a  
9 minimum, Your Honor, I think it would be prudent to  
10 recess here and to allow Mr. Jenkins and Mr. Leiva to  
11 talk to their client and make as certain as they  
12 possibly can that this is crystal clear.

13 Mr. Jenkins leading, I think, on this narrow  
14 issue is completely appropriate. We won't object to  
15 that. But, I am concerned that because he should be  
16 using the actual name in other contexts, not just the  
17 reburial, but membership, other -- I mean, anything  
18 other than the murder, that's the part that I think the  
19 witnesses have had a lot of confusion with.

20 And I think it's less likely that we'll have  
21 him say the name in the context of the murder than that  
22 he will use the term "homeboy two" in another context,  
23 which would potentially make it clear to the jury  
24 exactly what we have tried so hard during this case to  
25 keep out of the trial.

1           So, I think we do need a little more  
2 explanation than the colloquy that was just given.

3           MR. JENKINS: Your Honor, I respectfully  
4 disagree. Mr. Lopez Torres has been paying acute  
5 attention throughout this entire trial. And while  
6 Mr. Lopez Torres and I did not specifically talk about  
7 the homeboy two, him using it during his testimony here  
8 today before he arrived at his decision that he wished  
9 to exercise his Fifth Amendment right, based on all of  
10 my other conversations with him during the course of  
11 this trial and before this trial, in discussing the  
12 Court's rulings on how to deal with this issue, I am  
13 confident that Mr. Lopez Torres is going to do his best  
14 to abide by the Court's instructions.

15           And I do not believe that by taking  
16 additional time to discuss the matter with Mr. Lopez  
17 Torres any further, is going to enhance our position at  
18 all.

19           I believe that Mr. Torres understands the  
20 Court's order and will make every opportunity to -- take  
21 every effort to abide by it.

22           MR. AMOLSCH: Your Honor, if I could --

23           THE COURT: The microphone is right there.

24           MR. AMOLSCH: I'm used to my voice carrying,  
25 Judge.

1 I think Mr. Jenkins is completely right,  
2 Judge.

3 But if you could just include one more  
4 admonition to the witness: not any nicknames either,  
5 like Bago, or Leopardo, or Guepardo or Gatito.

6 He is nodding his head, so he understands,  
7 but --

8 THE COURT: He's not to use them; is that  
9 what you're saying?

10 MR. AMOLSCH: Yes, Your Honor. Not just to  
11 use his name, but also any of the nicknames that the  
12 government has introduced through their witnesses.

13 THE COURT: I don't understand that aspect  
14 of it. What are you trying to say?

15 MR. AMOLSCH: Well, the government has  
16 introduced evidence that Mr. Cerna has nicknames:  
17 Leopardo, Gepardo, Gatito, Bago.

18 You instructed him about not using  
19 Mr. Cerna's name, and I just want to make sure he  
20 understands not to use any of the nicknames as well.

21 THE COURT: The government is entitled to  
22 ask him that question if he takes the stand, what  
23 nicknames he knew --

24 MR. AMOLSCH: I understand. But as -- I'm  
25 not against that rule; but just as it relates to the

1 Lagrima situation, Judge.

2 THE COURT: Okay. All right.

3 I'm going to take a recess, because I'm not  
4 going to take any chances. I want you to take whatever  
5 time you need to put him through his paces about this  
6 area, what's going to happen as it relates to the  
7 Lagrima murder, and to make sure he understands that  
8 with respect to all other things, he can use Mr. Cerna's  
9 name.

10 And so I'm going to be counting on you to do  
11 that. And you let me know when you're ready, and we'll  
12 bring the jury out.

13 But don't do it -- don't do it  
14 perfunctorily, Mr. Manuel Leiva and Mr. Jenkins. This  
15 is a very critical moment in the trial, and I want  
16 Mr. Lopez Torres to have his right to testify  
17 unfettered, without a bunch of bench conferences every  
18 five minutes.

19 Thank you. Take as much time as you need.  
20 (Court recessed at 2:52 p.m. and reconvened  
21 at 3:03 p.m.)

22 THE COURT: Ready to bring the jury out?

23 MR. JENKINS: I am, Your Honor.

24 THE COURT: All right.

25 You can bring the jury out, Mr. Toliver.



1 Thank you.

2 (Jury present.)

3 THE COURT: You may be seated.

4 All right. Let the clerk administer the  
5 oath.

6 (Witness sworn.)

7 THE WITNESS: I swear.

8 THE COURT: You may proceed.

9 MR. JENKINS: Yes, Your Honor.

10 Your Honor, for the record, at this time,  
11 the defense calls Mr. Jose Lopez Torres.

12 THEREUPON, JOSE LOPEZ TORRES, having been  
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. JENKINS:

16 Q. Good afternoon, Mr. Lopez Torres.

17 A. Good afternoon.

18 Q. Mr. Lopez Torres, are you the same individual  
19 who's charged in the superseding indictment in this  
20 manner?

21 A. Right.

22 Q. Other than the name Jose Lopez Torres, have you  
23 used any other names?

24 A. My nickname.

25 Q. What is your nickname?

1 A. Greñas.

2 Q. Mr. Lopez Torres, do -- what is your native  
3 language?

4 A. Spanish.

5 Q. Do you speak any other languages?

6 A. Just Spanish.

7 Q. Mr. Lopez Torres, where are you from?

8 A. From El Salvador.

9 Q. And how old are you, Mr. Lopez Torres?

10 A. Twenty-eight.

11 Q. Now, Mr. Lopez Torres, you've decided to testify  
12 here today?

13 A. Right.

14 Q. Do you have any agreements with the government  
15 with respect to your testimony here today?

16 A. None.

17 Q. In other words, do you expect to receive any  
18 benefits from the United States Attorney's Office in  
19 exchange for your testimony?

20 A. None.

21 Q. Mr. Lopez Torres, are you a member of a gang?

22 A. Right.

23 Q. What is the name of your gang?

24 A. Mara Salvatrucha.

25 Q. When did you become a member of the Mara

1 Salvatrucha?

2 A. In '96.

3 Q. How old were you when you became a member?

4 A. Eight years.

5 Q. Were you eight years old, or was it eight years  
6 ago?

7 A. I was eight years old.

8 Q. Where were you living when you became a member of  
9 the Mara Salvatrucha?

10 A. In El Salvador.

11 Q. Is the Mara Salvatrucha also known as MS-13?

12 A. Right.

13 Q. Is it also known as MS?

14 A. Right.

15 Q. And, MS, were you a member of a clique?

16 A. Right.

17 Q. What is a clique?

18 A. The name of the clique is Parque Vista. It's  
19 like a group.

20 Q. Is that the clique that you originally were --  
21 became a member of?

22 A. Right.

23 Q. Does the MS have rules?

24 A. Right.

25 Q. Does it have a rule concerning testifying in

1 court?

2 A. I don't understand well.

3 Q. Is there -- are there any rules in MS-13 with  
4 respect to testifying -- members testifying in court?

5 A. Depends on how the person testifies.

6 Q. Are there any punishments for those who break  
7 that rule?

8 A. Right.

9 Q. Do you know someone who has testified here in --  
10 during your trial who goes by the name Junior?

11 A. Right.

12 Q. How do you know Junior?

13 A. Through Salvadorian people.

14 Q. Was Junior a member of your gang?

15 A. No.

16 Q. How long have you known Junior?

17 A. Probably a year and a half.

18 Q. Do you know someone who's testified here during  
19 your trial who goes by the name of Drowsy?

20 A. I don't know him very well.

21 Q. How long have you known him?

22 A. I saw him only two days.

23 Q. Was -- is Drowsy a member of your gang?

24 A. According to what I was told, I think so.

25 Q. Was he a member of the PVLS clique?

1 A. According to what I was told, I think so.

2 Q. Do you know someone who has testified during your  
3 trial who goes by the name Demente?

4 A. Right.

5 Q. How long have you known Demente?

6 A. A year and a half.

7 Q. Was Demente a member of your gang?

8 A. Right.

9 Q. Was Demente a member of the PVLS clique?

10 A. Previously, he wasn't.

11 Q. Do you know someone who goes by the name Slow?

12 A. Right.

13 Q. Do you recall Slow testifying during your trial?

14 A. Right.

15 Q. Was Slow a member of your gang?

16 A. Right.

17 Q. Was Slow a member of the PVLS clique?

18 A. Previously, when you made a -- asked a question  
19 about Demente, he belonged to another clique, but then  
20 he transferred to Park View.

21 Q. Now, let's talk about Slow. Was Slow a member of  
22 the PVLS clique?

23 A. Right.

24 Q. Did you know someone who went by the name  
25 Peligroso?

1 A. Not much. I think I saw him twice.

2 Q. But you know who he was, correct?

3 A. Right.

4 Q. Do you recall listening to testimony during this  
5 trial concerning Peligroso?

6 A. Right.

7 Q. Did you know the individual Peligroso by any  
8 other name?

9 A. No.

10 Q. Was Peligroso a member of your clique?

11 A. Right.

12 Q. Did there come a time in which you became  
13 convinced that Peligroso had violated certain rules of  
14 MS-13?

15 A. I'm not very well aware of that. Things I had  
16 heard, but I can -- can't state things precisely.

17 Q. The things that you said you had heard with  
18 respect to Peligroso's violation of rules, did you learn  
19 those things from other gang members?

20 A. Right.

21 Q. What did those other gang members tell you with  
22 respect to Peligroso's violation of MS gang rules?

23 A. That he was raising, starting a clique without  
24 authorization, and doing things that he was not supposed  
25 to do.

1 Q. What are some of those things he was doing that  
2 he was not supposed to do?

3 A. Jumping people without the gang's authorization,  
4 doing illegal deals without the gang authorization, and  
5 presumably, one thing I heard from Drowsy that, was that  
6 presumably he had snitched on him when he was arrested.

7 Q. Did you learn that -- excuse me -- information  
8 that you just referenced concerning him snitching, from  
9 Drowsy?

10 A. Right.

11 Q. Did you, yourself, ever accuse Peligroso of being  
12 a snitch?

13 A. Never.

14 Q. Did you personally have any information that  
15 Peligroso was a snitch?

16 A. Never.

17 Q. When you used the term "snitch," what do you  
18 mean?

19 A. Being a cooperator with the police.

20 Q. Did the gang discuss a way to deal with  
21 Peligroso's rule violations?

22 A. Drowsy spoke about that with some other people.

23 Q. Were you present when Drowsy was speaking about  
24 it to other people?

25 A. On two occasions; the first one over the phone,

1 and the second one for about five minutes, because then  
2 I had to do some things I had to do.

3 Q. During these two discussions, did you occupy a  
4 position of leadership in the clique?

5 A. No.

6 Q. Who was the leader of the clique at that time?

7 A. Demente.

8 Q. Was Demente the first word?

9 A. Right.

10 Q. Who was the second word?

11 A. That was -- that was coming from El Salvador.

12 Q. With respect to Demente, what role did he play in  
13 the discussions concerning Peligroso?

14 A. About making -- taking measures to green light  
15 him because Drowsy said he had snitched.

16 Q. Was there a plan put in action to deal with  
17 Peligroso?

18 A. Can you repeat that?

19 Q. Was a plan developed to deal with Peligroso?

20 A. I think so.

21 Q. What was the plan -- or what -- strike that.

22 What was your understanding of the plan to deal  
23 with Peligroso?

24 A. I only know there was a plan, but when someone  
25 doesn't have the word in a clique, you're not supposed



1 to be hearing things that you're not supposed to. And,  
2 Drowsy had been a runner before he was arrested.

3 Q. Do you recall being arrested in October of 2013  
4 in Woodbridge, Virginia?

5 A. Right.

6 Q. Where were you?

7 A. In the car.

8 Q. Who was in the car with you?

9 A. Drowsy, Marciano, and Demente, and I.

10 Q. Who is Marciano?

11 A. It seems that he was one person who was going to  
12 become a *chequeo* that day.

13 Q. He was to become a *chequeo* that day?

14 A. According to what I've heard, I think so.

15 Q. What does one need to do in order to become a  
16 *chequeo* in MS-13?

17 A. I couldn't tell you, because -- well, it depends,  
18 well, I mean, really, at that point, I didn't know what  
19 we were going to do. It wasn't until I got into the car  
20 that I learned what we were going to do and what was  
21 supposed to happen. Because there's different ways you  
22 can become a *chequeo*. You don't have to kill somebody.  
23 You can do different things.

24 Q. Where was Marciano seated in the vehicle?

25 A. In the rear.

1 Q. Where was Demente?

2 A. He was the one who was driving.

3 Q. Whose car -- who did the car belong to?

4 A. I think Demente.

5 Q. Where was Drowsy in the vehicle?

6 A. In the rear.

7 Q. And where were you?

8 A. In the front.

9 Q. Were any weapons in the vehicle?

10 A. I didn't see -- I mean, to that point, I hadn't  
11 seen any.

12 Q. Did you -- do you recall the testimony of Demente  
13 concerning weapons in the vehicle?

14 A. Could you explain it, please?

15 Q. Let me ask you: Did you place any weapons in  
16 that vehicle?

17 A. Never.

18 Q. What was your understanding of the purpose of  
19 you, Drowsy, Demente, and Marciano being in the vehicle  
20 on that evening?

21 A. Well, as far as I had been told, we were supposed  
22 to go beat up Peligroso so he would understand the  
23 warning, because he'd been warned before that. But as I  
24 understood things, on the way there, things changed.

25 Q. How did they change?

1           A.   Seemed that we weren't going to beat him up any  
2 more. We were going to go kill.

3           Q.   Who decided that Peligroso would be killed?

4           A.   That was decided by Demente with Drowsy.

5           Q.   Did you agree with Demente and Drowsy to kill  
6 Peligroso?

7           A.   At no point, because he hadn't shown papers, and  
8 we cannot kill a homeboy if he hasn't shown papers,  
9 because that is a commitment.

10          Q.   Is it your testimony that when you were in the  
11 vehicle that night, you were going to beat up Peligroso?

12          A.   Right. Because, had I known, I wouldn't have --  
13 I mean, I would have brought what was necessary, like a  
14 hood, like gloves, like, you know -- because then you go  
15 with some other intention. But since you don't know,  
16 you just go as you normally would.

17          Q.   What is a *calentón*?

18          A.   They're going to hit you hard. I mean, over  
19 there, it's not going to be -- you're not going to do  
20 26. They're going to hit you like a crazy minute.  
21 They're going to hit you, whatever.

22          Q.   Was it the plan that evening, when you got  
23 arrested, to do a *calentón* on Peligroso?

24          A.   Correct.

25          Q.   Mr. Lopez Torres, did you discuss the planned

1     *calentón* on Peligroso with the person you knew as  
2     Junior?

3         A.    Junior already knew from before.

4         Q.    Do you know how Junior knew from before?

5         A.    Because I think Junior had had a problem with  
6     Peligroso.

7         Q.    Did you have these discussions with Junior  
8     concerning Peligroso before you were arrested?

9         A.    Correct.

10        Q.    At some point in time, did you also have  
11   discussions with Drowsy concerning Peligroso?

12        A.    No. Well, I mean -- I mean, the thing is, there  
13   was a confusion, because there's a recording in there in  
14   which there was confusion, because there was a  
15   conversation going on with Peligroso -- with Payaso --

16               THE INTERPRETER: Interpreter corrects  
17   himself.

18               THE WITNESS: -- conversation with Payaso,  
19   which is another homeboy, which is another person. But  
20   this thing is, there was a habit sometimes, when you're  
21   on line talking with somebody, there's a *mana* or a habit  
22   between homeboys, to tell somebody, "Don't say  
23   anything." But, in order to have somebody else on the  
24   line listening, and -- and that was --

25        Q.    Okay. Do you know someone who goes by the name

1 Duende?

2 A. Correct.

3 Q. How do you know him?

4 A. From what I've heard and from what he has shown  
5 about what the neighborhood was made of.

6 Q. Was Duende a part of the discussions about what  
7 to do concerning Peligroso?

8 A. I came to realize that, too much.

9 Q. Let's move on. Did you know someone who went by  
10 the name Lagrima?

11 A. Correct.

12 Q. How did you know him?

13 A. Because he was a member of the Mara.

14 Q. Was he also a member of your clique?

15 A. Earlier on he used to be a member of another  
16 clique.

17 Q. Did there come a time in which the gang believed  
18 that Lagrima had violated gang rules?

19 A. Not that we had thought that he violated; and he  
20 demonstrated that he had violated them.

21 Q. What were his violations? What rules did he  
22 violate?

23 A. Well, first of all, you cannot go about raping  
24 people only for the sake of it, or to cause harm to  
25 somebody without a reason.

1 (Witness answers further in Spanish.)

2 THE INTERPRETER: Interpreter would like to  
3 clarify. The word used, "violated" before, in Spanish  
4 could be mean rape and abusing somebody. May this be  
5 clarified as another thing that was said by the witness,  
6 later statement was: "You could" -- it was perhaps a  
7 clarifying statement -- "you could not just go beating  
8 around people without a reason."

9 BY MR. JENKINS:

10 Q. Now, at the time in which the gang believed that  
11 Lagrima had violated gang rules, did you have a position  
12 of leadership?

13 A. I had a voice.

14 Q. When you say you had the voice, what do you mean?

15 A. That I would have to pass the instructions, the  
16 voice, to some people as to what the *palabredo*, the shot  
17 caller, would tell me, or what I would be instructed to  
18 do from El Salvador.

19 Q. Do you mean that you would relate messages from  
20 the shot caller to the other members of the gang?

21 A. Depends on what authorization I got, as to who  
22 could I pass those voices to.

23 Q. Were there discussions by the gang concerning  
24 what to do about Lagrima's rule violations?

25 A. Yes. Junior was present.

1 Q. Were you present?

2 A. Correct.

3 Q. Was homeboy two present?

4 A. Not for the meeting.

5 Q. Do you recall any other gang members that were  
6 present for the discussions?

7 A. In the discussions, Skinny, I, Duende, Slow, and  
8 Lil Evil.

9 Q. Who is Skinny?

10 A. He was -- he was almost like my right-hand man.

11 Q. Was he also a member of the gang?

12 A. Correct.

13 Q. And, he was a member of PVLS?

14 A. Correct.

15 Q. Who was Lil Evil?

16 A. He was another member of the gang.

17 Q. Was he also a member of PVLS?

18 A. Correct.

19 Q. Was this discussion held over the phone or was it  
20 in person?

21 A. Well, they were telling us from El Salvador --  
22 well, they were with me.

23 Q. Were -- did anyone participate in these  
24 discussions by phone?

25 THE INTERPRETER: Can counsel repeat the

1 question, please.

2 BY MR. JENKINS:

3 Q. Did anyone participate in these discussions by  
4 phone?

5 A. Yes.

6 Q. Who participated in the discussions by phone?

7 A. The five of us who were there.

8 Q. What was the plan to deal with Lagrima?

9 A. Well, the plan they gave us was for us to kill  
10 him.

11 Q. The plan was -- that was given to you was to kill  
12 him?

13 A. Correct.

14 Q. Do you remember the details of the plan?

15 A. There was not a specific plan. We just told that  
16 the five of us were in charge of assassinating him,  
17 killing him, and that that should not get out from  
18 beyond the five of us.

19 Q. Was Lagrima killed?

20 A. Correct.

21 Q. Other than homeboy two, who participated in  
22 Lagrima's killing?

23 A. He didn't kill him.

24 Q. Who killed him?

25 A. I did, and Duende, and Slow, and Skinny, and Lil



1 Evil.

2 Q. Where did the killing occur?

3 A. Near where a little stream goes by, and there was  
4 some stuff half in construction.

5 Q. What did you do during the murder of Lagrima?

6 A. I stabbed him.

7 (Witness answering further in Spanish.)

8 THE INTERPRETER: Okay. The interpreter is  
9 going to request permission of the Court to clarify.

10 THE COURT: All right.

11 THE WITNESS: With a *corvo*, defined as a  
12 large sword -- machete, and also with a knife, but it's  
13 a special knife that's got like a point on the edge.

14 BY MR. JENKINS:

15 Q. What did Skinny do?

16 A. He stabbed him as well. Skinny, but for a  
17 reason, because the day when Lagrima recommended Skinny  
18 as a *chequeo*, he told him that if he ever failed  
19 Lagrima, that he was going to kill him; but likewise,  
20 that if he ever should fail Skinny, to kill him as well,  
21 because that was like a rule.

22 Q. Mr. Lopez Torres, what, if anything, did Skinny  
23 do during the murder of Lagrima?

24 A. He and I, we dug up the first hole. That was  
25 like around 4:00 p.m. He and Lil Slow and Duende and

1 Lil Evil and I, we all stabbed him all over -- well, we  
2 didn't stab him all over. We stabbed him in the part  
3 over here (indicating) and over here, and here, and also  
4 in the part of the legs and part of the head.

5 Q. Mr. Lopez Torres, for the judge's benefit, can  
6 you please show again on your body where you stabbed  
7 Lagrima?

8 A. (Indicating) Over here with the machete in this  
9 part, this part, and this part. Skinny stabbed him here  
10 three times. Duende and Slow were the ones that stabbed  
11 him here and in the front.

12 THE COURT: The record should reflect that  
13 the witness identified a machete going down the center  
14 of the top of the head, in between the eyes, and across  
15 the left side of the head, and two stab wounds in the  
16 chest, heart area.

17 You may proceed.

18 BY MR. JENKINS:

19 Q. You testified that you and Skinny dug a hole; is  
20 that correct?

21 A. Right.

22 Q. And, you indicated that you dug this hole at  
23 about 4:00 p.m. on the day of the murder?

24 A. Right.

25 Q. Did you dig the hole before the murder?

1 A. Right.

2 Q. Who assisted you with digging the hole?

3 A. The five of us who had gotten the order to kill  
4 Lagrima got together, and at that time, I made sure,  
5 because we were going to go by Barcroft, and homeboy two  
6 lived there. I called him and asked him where he was,  
7 and he told me he was at home. I told him not to go  
8 out, because the area was very hot with the police.

9 It would be good if you put a photograph of the  
10 Culmore area, so I can indicate our path that we walked,  
11 and where we got the two shovels to dig.

12 Q. Mr. Lopez Torres, we'll get to that.

13 Mr. Lopez Torres, after Lagrima was dead, what,  
14 if anything, did you do?

15 A. We buried him.

16 (Interpreters conferring.)

17 THE INTERPRETER: Interpreter correction.

18 When the witness said that he told him not  
19 to go out because it was hot with the police, he added,  
20 "as an excuse."

21 BY MR. JENKINS:

22 Q. Mr. Lopez Torres, do you know -- well, what does  
23 it mean to dismember someone?

24 A. We were exaggerating.

25 Q. Did you dismember Lagrima?

1 A. Never.

2 Q. Have you listened to the recordings of  
3 conversations between you and other gang members that  
4 were produced during the course of this case?

5 A. Right.

6 Q. Did you ever tell any other gang member that you  
7 had dismembered Lagrima?

8 A. Right.

9 Q. You testified that you exaggerated; is that  
10 correct?

11 A. Right.

12 Q. Why did you exaggerate?

13 A. Many of us exaggerate. It's a way to survive in  
14 the system of the gang. I've been surviving like that  
15 practically all my life by exaggerating and to be in a  
16 good standing with other people, so they don't look down  
17 on you, or that they don't think you're weak. Because  
18 if you're weak in the gang, you die.

19 Q. Is it uncommon for gang members, in your  
20 experience, to lie to one another?

21 A. That's not uncommon. Ever since the Mara was  
22 formed, they teach you all my life that they teach you,  
23 because, I grew up on the street, and they teach you to  
24 lie, to lie to survive.

25 Q. Does this lying include taking credit for

1 participating in crimes that a member may not have  
2 participated in?

3 A. Right. It's always the cat and mouse. It's --  
4 it's -- you can't be weak. It's always like that. It's  
5 like a cat and mouse. And if you killed an ant, you  
6 have to say you killed a --

7 THE INTERPRETER: Excuse me. Interpreter  
8 needs a minute, please.

9 THE WITNESS: Instead of saying you killed  
10 an ant, you say you killed a *marabunta* ant. So the --  
11 or an army.

12 BY MR. JENKINS:

13 Q. And, this exaggeration, does it also include  
14 taking credit for being involved in crimes in which you  
15 were not?

16 (Witness conferring with interpreter.)

17 THE INTERPRETER: The previous answer the  
18 witness says:

19 THE WITNESS: And you do that. You  
20 exaggerate, and you say you killed, even though inside  
21 you're crying.

22 BY MR. JENKINS:

23 Q. Now, my next question was: Does this  
24 exaggeration include taking credit for participating in  
25 crimes in which a member actually did not participate?

1       A. It's always. You want to get it. I mean, only  
2 us gang members will understand how the gang system  
3 works. We have a saying that says, "You have it, I have  
4 it." If I killed him, he also has the right to say that  
5 he did, even though he hasn't. Many of us do that.

6               THE COURT: Next question.

7 BY MR. JENKINS:

8       Q. Mr. Lopez Torres, at some point in time, was  
9 there a need to dig up the body of Lagrima?

10      A. Seems like it.

11      Q. Were you a part of that plan?

12      A. No.

13      Q. How did you learn about the digging up of  
14 Lagrima's body?

15      A. Presumably, Skinny, Slow, Duende and Lil Evil  
16 were going to do it, because what we had done was not  
17 going to be known by any other -- anyone else.

18      Q. Did you participate in the reburial of Lagrima?

19      A. No.

20      Q. Do I understand that the individuals who  
21 participated in the reburial of Lagrima -- could you  
22 please name them again?

23      A. Before I go there, I dug the second hole. That's  
24 the only thing I did, with Skinny. And I brought up  
25 rocks and dirt -- sand with him.

1 THE COURT: Excuse me. We'll take the  
2 afternoon recess for 15 minutes.

3 MR. JENKINS: Yes, Your Honor.

4 THE COURT: Let the jury go out first.  
5 Remain seated. Remain seated.

6 You all can go out.

7 (Jury not present.)

8 THE COURT: Please be seated.

9 Counsel, I prefer that you remind him about  
10 this part of what the instruction is, before -- and I  
11 want you to lead --

12 MR. JENKINS: Yes, Your Honor.

13 THE COURT: -- with names. All right?

14 MR. JENKINS: Yes, Your Honor.

15 THE COURT: Thank you.

16 All right, 15 minutes.

17 (Court recessed at 3:52 p.m. and reconvened  
18 at 4:10 p.m.)

19 MR. JENKINS: Your Honor, before the jury  
20 comes out --

21 THE COURT: Let's just wait for counsel to  
22 be seated.

23 Yes, sir.

24 MR. JENKINS: I conferred with Ms. Martinez,  
25 and I just want to be absolutely clear in front of

1 Mr. Lopez Torres.

2 I am about to now solicit some testimony  
3 concerning the reburial of Lagrima. And it is our  
4 understanding that it is permissible for the witness to  
5 now use the actual given name for homeboy two.

6 THE COURT: Well, Mr. Cerna.

7 MR. JENKINS: Yes, Mr. Cerna -- and not use  
8 homeboy two.

9 THE COURT: Exactly. So I want you to lead  
10 by using the name --

11 MR. JENKINS: Yes.

12 THE COURT: -- If you don't mind.

13 MR. JENKINS: Yes. Yes.

14 THE COURT: Ready to bring the jury out?

15 All right. You can bring the jury out.

16 THE WITNESS: Right now, I'm not supposed to  
17 use the name --

18 THE COURT: Hold on.

19 THE WITNESS: -- for homeboy --

20 MR. JENKINS: We are now going to discuss  
21 the reburial of Lagrima. During this portion of your  
22 testimony, the Judge is permitting you to use  
23 Mr. Cerna's name, if necessary.

24 THE COURT: And not to use "homeboy two" at  
25 all.



1 MR. JENKINS: But do not use "homeboy two"  
2 in discussing the reburial.

3 THE WITNESS: Okay.

4 THE COURT: Can you explain to us what  
5 Mr. Jenkins just told you?

6 THE WITNESS: I understood.

7 THE COURT: I want you to tell me.

8 THE WITNESS: Right now, we're not talking  
9 about the murder. We're talking about the unburial and  
10 reburial. So, right now, if there is a need to mention  
11 Christian Lemus, it will be by the name or by the  
12 nickname, but not by "homeboy two."

13 MR. JENKINS: Not by "homeboy two" is what  
14 he said, Your Honor.

15 THE COURT: But we're only talking about  
16 burial and the reburial now.

17 MR. JENKINS: The reburial, Your Honor.

18 THE COURT: All right.

19 THE WITNESS: Correct.

20 THE COURT: Thank you.

21 You can bring our jury out, Mr. Toliver.

22 Thank you.

23 (Jury present.)

24 THE COURT: You may be seated.

25 Counsel, you may proceed.

1 MR. JENKINS: Thank you, Your Honor.

2 BY MR. JENKINS:

3 Q. Mr. Lopez Torres, prior to the break, you had, in  
4 response to my question, indicated that you and Skinny  
5 dug the second hole for the reburial of Lagrima. Do you  
6 recall that?

7 A. Correct. Right.

8 Q. Where was this second hole dug?

9 A. A little ways away from the first one.

10 Q. How many days had -- how much time had passed  
11 between when Lagrima was murdered and when you dug the  
12 second hole?

13 A. Twenty-five days, something like that.

14 Q. How was he -- was he reburied?

15 A. Once they got him out, yes.

16 Q. Did you participate in the reburial?

17 A. I just pulled out rocks and I dug out the second  
18 hole with Skinny.

19 Q. Did you carry the body to the second hole?

20 A. No.

21 Q. Mr. Lopez Torres, how long have you -- well, are  
22 you in jail now?

23 A. Right.

24 Q. How long have you been in jail in connection with  
25 this case?

1       A.    You could say something like two years, a year  
2       and a half, something like that. But actually being in  
3       jail, I've almost -- I'm going to -- it's going to be  
4       three years. I mean, I don't count the months, what  
5       goes with the -- I mean, I don't really keep track of  
6       the months or the months that I'm here. I don't care  
7       about the months.

8       Q.    Since you have been in jail, have you had any  
9       communications with any other gang members?

10      A.    Right.

11      Q.    Have these discussions with other gang members  
12      included the charges in this case?

13      A.    With some of them, yes, with some of them, not.

14      Q.    With those in which you have, have you discussed  
15      with other gang members the evidence in this case?

16      A.    With some other people, yes.

17      Q.    With those people, did you discuss what you  
18      expected the government to prove in this case is?

19      A.    With some of them, yes.

20      Q.    Can you tell us the name of those individuals,  
21      those gang members that you discussed this case with  
22      while you were in jail?

23      A.    Well, with Duende, we have been in touch with  
24      something sort of like through letters. I mean he  
25      already told me that he was cooperating, but he had lied

1 to me about a situation with Gerson, you know. He -- I  
2 mean, he was running out, but didn't say that it was  
3 because of a situation with Lil Guasón, that they had  
4 given him the green light.

5 Q. With -- Mr. Lopez Torres, wait for the  
6 interpreter.

7 THE INTERPRETER: Interpreter corrects  
8 himself, that: "He had ratted about other things, not  
9 about the ones why they gave him the green light."

10 BY MR. JENKINS:

11 Q. With respect with Duende, let's take him first.  
12 When did you have these discussions with Duende?

13 A. When I had just barely been brought here to  
14 Alexandria.

15 Q. When you had these discussions with Duende  
16 concerning this case, had you received a copy of the  
17 indictment?

18 A. Actually, I can't remember. I can't remember  
19 very well.

20 Q. At the time you had these discussions with  
21 Duende, do you -- were you aware of what you were  
22 charged with?

23 A. Yes.

24 Q. At this time, when you had these discussions with  
25 Duende, were you aware of what all of the defendants on

1 trial today were charged with?

2 A. No, not at that time, until a moment arrived when  
3 I got all the papers. And then I was surprised because  
4 I saw certain persons in cases they had nothing to do  
5 with.

6 Q. When you say -- when you got the papers, what  
7 papers are you referring to?

8 A. The ones with the charges and the names of the  
9 persons.

10 Q. Did these papers include investigative reports?

11 A. I don't remember.

12 Q. Did they include recorded conversations?

13 A. No.

14 Q. At some point in time, did you listen to the  
15 recorded conversations?

16 A. Only once. My attorney came over to start  
17 explaining the case to me real well.

18 Q. And did you discuss with Duende the fact that you  
19 had received these papers?

20 A. Well, yeah, right. I mean, we would send  
21 messages to each other when we're over at the jail,  
22 because he was like in protective custody. So we would  
23 do it through little wrapped up papers that somebody who  
24 was there doing the cleaning stuff would carry over to  
25 him.

1 But I had believed him, because he had given me a  
2 version that was different than the one that was about  
3 accusing certain people, not the ones that were.

4 Q. Were you aware, or did you become aware, that  
5 Duende was going to accuse other people of things?

6 A. Well, the thing is, after he told me he had  
7 reached an agreement with the prosecution -- because I  
8 didn't know how that whole business worked of having  
9 deals with the prosecution for people who snitched, but  
10 he told me that he had gotten from them a good deal,  
11 that he was going to get life times two, which in the  
12 end would come out to 20 years, and that he was going to  
13 bring in somebody in, and that he was going to be saying  
14 the truth, because the prosecution had asked him to tell  
15 the truth.

16 Q. Was one of the individuals you spoke with in  
17 jail, Slow?

18 A. Right.

19 Q. When you had these discussions with Slow, was it  
20 after you had been charged in this case?

21 A. Right.

22 Q. Was -- did you have these discussions with Slow  
23 after you had received what you called the papers?

24 A. Well, I don't -- I can't remember exactly, I  
25 cannot remember exactly about the date. Slow told me

1 that he was going to be coming to trial with us. And  
2 the thing is -- Slow was going to be coming to trial  
3 with us, because at the time he had already -- well,  
4 Slow had already gotten the green light, but not for  
5 being a rat, but for some other reason.

6 THE INTERPRETER: And, Your Honor, the  
7 interpreter would like to call the Court and counsel --  
8 the interpreter believes there was a statement in  
9 between those two that the interpreter could not recall.  
10 I don't know if the other interpreter's colleagues  
11 remember that.

12 THE COURT: Why don't you ask your question  
13 again.

14 BY MR. JENKINS:

15 Q. At the time you had these discussions with Slow,  
16 had you already received what you called the papers?

17 A. I can't remember very well.

18 Q. Do you remember discussing with Slow what the  
19 allegations were against you?

20 A. We talked for a pretty lengthy, length of time,  
21 that: Yeah, let's go to trial, as long as nobody ratted  
22 anybody out, nobody was going to realize that we had  
23 gone.

24 And, he said that, you know, we should get the  
25 five of us and, then, you know, get other people -- I

1 mean, to rat out and to get other people involved.  
2 Because he had already been talking to the prosecutors  
3 and I don't know how he had been realizing, and that he  
4 had been ratting out.

5 Q. When he told you that you should get other people  
6 involved, what did you understand that to mean?

7 (Question not yet translated.)

8 MR. JENKINS: Court's indulgence.

9 (Off the record discussion with counsel.)

10 MR. JENKINS: Your Honor, if I could  
11 withdraw that last question based on --

12 THE COURT: All right.

13 BY MR. JENKINS:

14 Q. Mr. Lopez Torres, in response to my last  
15 question, did you say in Spanish to the interpreter that  
16 Lil Slow told you that you and him should rat out and  
17 bring other people into the case?

18 A. Right.

19 Q. What did you understand him to mean by that,  
20 "bring other people into the case"?

21 A. Well, to save our skins. Because the government  
22 makes promises to you that no one's going to know, and  
23 they're going to protect your family. But when it comes  
24 time down to it, I think that the -- I mean, the  
25 detective sitting there knows very well, the one who is



1 a Mexican one -- well the times when the, you know --

2 THE INTERPRETER: Permission to clarify.

3 (Interpreter conferring with witness.)

4 THE WITNESS: At times when they are not  
5 straight with you, they, you know, get information out  
6 of you, and then -- they didn't get anything out of me  
7 because they didn't have any conversation with me, but  
8 they did with some other people.

9 BY MR. JENKINS:

10 Q. Did Little -- did Slow suggest to you that you  
11 lie on others?

12 A. Correct.

13 MS. MARTINEZ: Your Honor, objection,  
14 leading.

15 THE COURT: It is. Objection sustained.

16 MR. JENKINS: I'll withdraw the question.

17 BY MR. JENKINS:

18 Q. After you had your conversations with Slow, what  
19 was your understanding of what Slow wanted you to do?

20 A. To cooperate.

21 Q. Now, at some point -- well, did you know someone  
22 in the gang or associate with the gang who went by the  
23 name Lil Wasón?

24 A. Right.

25 Q. How did you know him?

1           A.    He came to live with me because his family had  
2           kicked him out of the house.

3           Q.    How long did he live with you?

4           A.    Can't tell you for sure, because I really don't  
5           remember very well.

6           Q.    Was he a friend?

7           A.    More than a friend.

8           Q.    Was he also a member of your gang?

9           A.    When I was on the streets, I don't remember.  
10          Maybe, I think he was a *chequeo* or maybe even *paro*. I'm  
11          not sure.

12          Q.    Do you know what happened to him?

13          A.    He was killed by mistake.

14          Q.    How do you know what happened to him?

15          A.    Because Duende, Skinny, Slow, and another person  
16          bragged about what they had done and why they had done  
17          it.

18          Q.    When he was killed, Lil Wasón, where were you?

19          A.    In jail.

20                   MR. JENKINS: Court's indulgence.

21                   Your Honor, I have no further questions at  
22                   this time.

23                   THE COURT: Cross-examination by the  
24                   government? I don't see anybody moving.

25                   MS. MARTINEZ: I was waiting to see if

1 defense counsel had any questions, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. MARTINEZ:

4 Q. Okay. Let me see if I understand. You're guilty  
5 of the murder of Lagrima?

6 A. That's why I'm sitting right here.

7 Q. You killed him?

8 A. Right.

9 Q. Because you thought he was a rat?

10 A. Not because I thought. We can say many things,  
11 but only us within the gang know why we killed him.

12 Q. Oh, you're testifying under oath, so you actually  
13 have to say: Why did you kill Nelson Omar Quintanilla  
14 Trujillo?

15 A. For many reasons.

16 Q. List them.

17 A. For rape. For raping an underage girl, for going  
18 around beating people without a reason. And that's not  
19 something I'm making up about the beating. That's been  
20 recorded by the police. Stabbing people for no reason.  
21 For using drugs as he was not supposed to be using. And  
22 primarily for not obeying -- respecting the rules.  
23 Because when we get into the -- in this, we all know  
24 what the rules are. They are explained to you. And  
25 that's why you're first a *paro*, then you are a firm

1     *paro*, then *chequeo*.

2         Q.   Are you done listing the reasons why you killed  
3     Lagrima?

4         A.   Many reasons.

5         Q.   You've listed four. Do you have more?

6         A.   Using drugs, drinking, stealing. He was no  
7     angel.

8         Q.   Is that an excuse?

9         A.   No, it's not an excuse.

10        Q.   You killed him for violating rules of your gang,  
11     MS-13; is that right?

12        A.   That's what I was told to do, to kill him. I did  
13     not make that decision myself.

14        Q.   You did not make that decision?

15        A.   No. It was El Salvador.

16        Q.   But you're the one who asked El Salvador to put  
17     the green light on Lagrima, aren't you?

18        A.   That's what is in the calls.

19        Q.   That's what you said in the calls?

20        A.   To brag about what I had not asked for.

21        Q.   So, let me see if I understand this. In the  
22     calls you say that you believed Lagrima was a snitch,  
23     right?

24        A.   Right.

25        Q.   And that's grounds in MS-13 to kill someone,

1 right?

2 A. There are many reasons to kill a person.

3 Q. And, one of them, in fact one of the biggest  
4 reasons to kill someone in MS-13, is if the gang  
5 believes he's a snitch, correct?

6 A. Right.

7 Q. Before you were arrested, you said in these  
8 recordings that you killed Lagrima because he was a  
9 snitch, right?

10 A. Right.

11 Q. Now, you say it's because he broke other rules,  
12 right?

13 MR. JENKINS: Objection, Your Honor. I  
14 think that misstates his testimony.

15 THE COURT: Is that a speaking objection,  
16 Mr. Jenkins?

17 Objection overruled. This is  
18 cross-examination.

19 BY MS. MARTINEZ:

20 Q. Now, today in court you claim that you had other  
21 motives?

22 A. I would have liked Junior to record all the  
23 calls, a call on July 25th --

24 MS. MARTINEZ: Objection, Your Honor. The  
25 witness is not being responsive to the question.

1 MR. JENKINS: Your Honor, I don't know if we  
2 know.

3 MS. MARTINEZ: We do. Some of it was  
4 translated into English.

5 THE COURT: If you would restate your  
6 question.

7 BY MS. MARTINEZ:

8 Q. Today in court, you have testified that you had  
9 other motives to kill Lagrima; is that correct?

10 A. I didn't have other motives. The gang had other  
11 motives.

12 Q. You killed him, right?

13 A. Right.

14 Q. And, just a minute ago, I asked you why. Do you  
15 remember that?

16 A. Right.

17 Q. You gave me a list of reasons that you killed  
18 Lagrima, correct?

19 A. Right.

20 Q. Do you want to change your testimony?

21 A. At no time.

22 Q. So, am I correct that today in court you are  
23 testifying that you had other reasons, other than  
24 believing that Lagrima was a snitch, to kill him?

25 A. (Answering, not yet translated.)

1 MS. MARTINEZ: Objection, Your Honor. It  
2 was a yes or no question.

3 THE COURT: It was. Sustained.

4 BY MS. MARTINEZ:

5 Q. I'm going to ask you again. Today in court, your  
6 testimony, yes or no, is that you had motives other than  
7 believing Lagrima was a snitch when you killed him.

8 A. The reason I did not have, but he was killed for  
9 being a rat, too.

10 Q. You killed him?

11 A. Right.

12 Q. You had reasons?

13 A. I didn't have any motives. To begin with, I am  
14 not the one who makes the decisions. But, I did kill  
15 him for being a snitch.

16 Q. So, what you said in the calls was true?

17 A. Right.

18 Q. You believed he was a snitch?

19 A. I did not think he was. It was because he was.

20 Q. Because of your belief that Lagrima was a snitch,  
21 you killed him?

22 MR. JENKINS: Asked and answered, Your  
23 Honor.

24 THE COURT: Sustained.

25 BY MS. MARTINEZ:

1 Q. Snitching isn't allowed in MS-13, right?

2 A. It is not allowed.

3 Q. If someone snitches, they get a green light,  
4 right?

5 A. You can be green lighted for many reasons.

6 Q. That wasn't my question. Listen to my question.  
7 If someone snitches in MS-13, they get a green light,  
8 right?

9 A. There have been times in that it hasn't.

10 Q. This time, it happened.

11 A. Correct.

12 Q. A green light was put on Lagrima.

13 A. For me, it wasn't a green light. But, green  
14 light means that you go out looking for the person. The  
15 order was to kill him.

16 Q. Is it your testimony that a green light doesn't  
17 mean to kill someone?

18 A. Yes, it means that. But what I'm trying to say  
19 is that you have to go look for the person. But, when  
20 he's there and you're told you have to do it, you have  
21 to go ahead and do it.

22 Q. So, is your testimony that Lagrima wasn't green  
23 lit because you didn't have to go look for him?

24 A. Right. He was right there.

25 Q. You just lured him to the park, right?



1 A. Correct.

2 Q. Pretended there would be a normal gang meeting,  
3 right?

4 A. Five of us knew that we were going to kill him.  
5 The rest didn't know.

6 Q. I'm asking about what you did. You pretended  
7 that it would be a normal gang meeting, right?

8 A. Right.

9 Q. And, that was a lie?

10 A. Right.

11 Q. Because you knew that you had weapons?

12 A. What do you mean? I don't understand the  
13 question.

14 Q. You knew that the gang brought weapons to the  
15 park the night that Lagrima was killed.

16 A. Yes.

17 Q. A machete, right?

18 A. Machete, right.

19 Q. And knives, right?

20 A. One knife.

21 Q. Weapons like that are not allowed at normal gang  
22 meetings, right?

23 A. No.

24 Q. The only reason you had them that night was to  
25 kill Lagrima?

1 A. Right.

2 Q. But, you didn't have to go look for him; is that  
3 your testimony?

4 A. No.

5 Q. You just asked him to come to a meeting?

6 A. Right.

7 Q. And that was a lie?

8 A. Right.

9 Q. Once the meeting started, you told Lagrima that  
10 he would get a *calentón*?

11 A. That's what the five of us agreed on.

12 Q. I'm asking about you. You personally told  
13 Lagrima that he would receive a *calentón* that night?

14 A. Right.

15 Q. That was a lie?

16 A. Right.

17 Q. Weapons are not permitted during a *calentón*?

18 MR. LEIVA: Asked and answered already.

19 THE COURT: Overruled.

20 BY MS. MARTINEZ:

21 Q. Weapons are not permitted during a *calentón*,  
22 right?

23 A. Right.

24 Q. But, you knew that weapons would be used, right?

25 A. Right.

1 Q. You knew that you would count to 13, right?

2 A. 26.

3 Q. You knew that you would start counting to 26,  
4 correct?

5 A. Right.

6 Q. And, you knew that at some point, you would yell,  
7 *trucha*, right?

8 A. The other four were going to jump on him.

9 Q. When you yelled *trucha*, the other four would jump  
10 on him; that's your testimony?

11 A. To give it to him hard, to start counting.

12 Q. *Trucha* was the signal that it was time to kill  
13 him, wasn't it?

14 A. No.

15 Q. When did you yell *trucha* then?

16 A. When I started counting.

17 Q. When you finished counting, Lagrima was on the  
18 ground, right?

19 A. No. When I was on 22, I told Skinny, *buso*, and  
20 he already knew what he had to do.

21 Q. *Buso*, b-u-s-o, what does that mean?

22 A. Well, like ready, like ready to throw him down.

23 Q. So, in other words, you gave the command for the  
24 others to kill Lagrima?

25 A. I was the one who killed him, with other four.

1 Q. You were the one who gave the order, *buso*, right?

2 A. For them to drop him, yes.

3 Q. And, to begin killing him, yes?

4 A. Right.

5 Q. And, that's what happened, right?

6 A. Right.

7 Q. He was stabbed in the stomach with a knife,  
8 right?

9 A. We didn't stab him in the stomach.

10 Q. He was stabbed in the chest with a knife, right?

11 A. With both weapons.

12 Q. He was slashed across the face with a machete,  
13 correct?

14 A. Right.

15 Q. He was slashed in the jaw?

16 A. Right.

17 Q. He was slashed across the top of the head?

18 A. Uh-huh. I think so.

19 Q. He was slashed across the face?

20 A. Yes.

21 Q. How many times was he slashed across the face  
22 with the machete?

23 A. In the head, approximately like about five times  
24 or something like that, unless I'm wrong.

25 Q. In addition to that, he was stabbed repeatedly,

1 right?

2 A. Right.

3 Q. And, in addition to that, he was attacked on the  
4 legs, correct?

5 A. Well, for that, I think it was not when we killed  
6 him.

7 Q. Was it later, when you buried him?

8 A. I didn't bury him.

9 Q. Were Lagrima's legs hacked with a weapon?

10 A. I don't know.

11 Q. What weapons were used on Lagrima?

12 A. When I -- when we killed him, there was a machete  
13 and the thing that looks like a knife.

14 Q. Which weapon did you bring?

15 A. The knife.

16 Q. How big was the knife that you brought to kill  
17 Lagrima?

18 A. Like this (indicating).

19 THE COURT: About eight, nine inches.

20 THE WITNESS: With a point on top, curved  
21 point.

22 BY MS. MARTINEZ:

23 Q. Is that the length the blade, or the blade  
24 including the handle?

25 A. The whole thing.

1 Q. Where did you stab Lagrima?

2 A. On the chest.

3 Q. Where else?

4 A. On the chest, and from there, well, we went at it  
5 one by one, so that we would all get our hands dirty.

6 Q. Where else did you stab Lagrima?

7 A. Just on the chest, and I hit him twice with the  
8 machete.

9 Q. How many times did you stab him with the knife?

10 A. About five, in the same spot.

11 THE INTERPRETER: Interpreter didn't quite  
12 hear the last word, Your Honor.

13 THE COURT: Okay.

14 THE WITNESS: On the same spot. It was  
15 almost like all five of us struck him almost on the same  
16 spot.

17 BY MS. MARTINEZ:

18 Q. Where did you slash him with the machete?

19 A. Like around the jaw and a little bit higher up.

20 Q. Higher up where?

21 A. Like about here (indicating), and about here.

22 Q. Are you the one who broke his jaw?

23 A. I think so. But it was with -- I mean, it was  
24 not my intention.

25 Q. Your intention was to kill him?

1           A.    That was the mission that the five of us had.

2           Q.    That wasn't my question. Your intention was to  
3 kill him?

4           A.    Yeah, you could say that, yeah. Because I  
5 couldn't leave, because then I know what would be coming  
6 my way.

7           Q.    Right before you started killing him, you told  
8 him why you were killing him, didn't you?

9           A.    The first word was "rat," and then the other  
10 things followed.

11          Q.    What you said was, "For being a rat, you're going  
12 to die," wasn't it?

13          A.    Right.

14          Q.    And then he begged for his life?

15          A.    He didn't beg. He was just saying that he was  
16 going to turn over to us who it was.

17                And Duende was like, excited, and he was saying,  
18 no, no, that we had to do it, we had to do it, and not  
19 to believe him.

20          Q.    Lagrima asked you not to kill him, right?

21          A.    He asked us.

22          Q.    Repeatedly, right?

23          A.    Maybe about three.

24          Q.    Three times, he asked you not to kill him?

25          A.    Yes, yes, that he was going to tell the truth to

1 US.

2 But Duende was saying, "Don't believe him. Don't  
3 believe him."

4 Q. He didn't have a chance to tell you whatever it  
5 was he wanted to tell you, right?

6 THE INTERPRETER: Sorry, Counsel. Would you  
7 repeat the question, please.

8 BY MS. MARTINEZ:

9 Q. He did not have a chance to tell you whatever it  
10 was that he wanted to tell you, right?

11 A. No, because Duende hit him three hits with a  
12 knife over, unless I'm mistaken, on this side, but he  
13 hit him three times with the knife.

14 Q. And, you hit him with the machete in the face:  
15 Is that your testimony?

16 A. Yes, yes; and that Duende was already so  
17 exalted (sic) and -- yes, that's how it was.

18 Q. So, he didn't have a chance -- Lagrima didn't  
19 have a chance to say what he wanted to say because you  
20 had killed him; is that right?

21 A. Well, I wanted -- I wanted him to tell me who it  
22 had been. But as I -- as I will repeat again, Duende  
23 was exalted.

24 THE INTERPRETER: Permission to clarify the  
25 term.



1 (Interpreter conferring with witness.)

2 THE WITNESS: He was -- he was exalted. He  
3 wanted us to finish quickly.

4 BY MS. MARTINEZ:

5 Q. So the answer to my question is yes, right?  
6 Or do you not remember the question?

7 A. Could you repeat it?

8 THE COURT: We can start there tomorrow,  
9 10:00 a.m.

10 Ladies and gentlemen, please do not discuss  
11 the case. Don't permit the case to be discussed in your  
12 presence. Don't do any research on the case or posting  
13 on social media. Don't review any media reports, and  
14 there may be some in the paper or on the news. And do  
15 not visit any locations mentioned during the trial.  
16 Leave your notes in the jury deliberation room.

17 We'll resume tomorrow at 10:00 o'clock.  
18 Thank you.

19 (Jury not present.)

20 THE COURT: You may be seated.

21 MR. JENKINS: Your Honor, may it please the  
22 Court, I just want to make sure I don't run afoul of the  
23 Court's expectation.

24 My understanding of the law, Your Honor, is  
25 that when a defendant testifies, during a brief recess

1 he is not permitted to confer with counsel. However,  
2 during an overnight recess, the defendant is free to  
3 confer with counsel.

4 And I just want to assure that that's the  
5 Court's understanding, also, that I don't run afoul of  
6 any ethical issues here.

7 THE COURT: That's a good question.

8 MR. JENKINS: I believe that's what the law  
9 is.

10 MS. MARTINEZ: Your Honor, I had hoped that  
11 you knew the answer to that.

12 Off the top of my head, I am not sure, and  
13 I'm not willing to take a position without looking into  
14 it. Mr. Jenkins is often correct about the law, but to  
15 be honest, I do not know.

16 THE COURT: Well, I'm going to take  
17 Mr. Jenkins' word as an officer of the court that that  
18 is the law. And, of course, if you speak to him  
19 overnight, the prosecutor can ask him whatever questions  
20 you asked him overnight.

21 MR. JENKINS: Thank you.

22 THE COURT: All right.

23 I want to remind my staff to leave your  
24 computers on when you sign off. They're going to be  
25 updating our computers.

1 In terms of jury instructions, make sure you  
2 respond to my law clerk's e-mail about jury  
3 instructions. Because once we're done, my plan is to go  
4 right into the instruction conference.

5 And so you know, depending upon when we  
6 finish, if we finish tomorrow, even if we finish at  
7 1:00 o'clock, I don't think it would be prudent to try  
8 to instruct and have arguments on Thursday. And we  
9 don't sit on Fridays.

10 So that means that we get the instructions  
11 done tomorrow afternoon, if possible, and give you a  
12 chance to reflect on them, and then we argue and  
13 instruct on Monday.

14 My practice is to instruct first, then the  
15 lawyers argue. And I give the jurors copies of the  
16 written instructions.

17 Any questions?

18 MR. AQUINO: So Monday is the operative  
19 date.

20 THE COURT: Monday looks like the operative  
21 date. But I don't know how long the examination will  
22 go, so that's the plan for right now.

23 Thank you. We're in recess.

24 (Proceedings concluded at 5:03 p.m.)

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CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United States District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the jury trial in the case of UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

I further certify that I was authorized and did report by stenotype the proceedings in said jury trial, and that the foregoing pages, numbered 1 to 172, inclusive, constitute the official transcript of said proceedings as taken from my shorthand notes.

IN WITNESS WHEREOF, I have hereto subscribed my name this 27th day of May, 2016.

/s/

Renecia Wilson, RMR, CRR  
Official Court Reporter